

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 -against-

6 MICHAEL MCMAHON, ET AL.,

7 Defendant.

-----x 21-CR-265 (PKC)

United States Courthouse
Brooklyn, New York

June 8, 2023
9:00 a.m.

8
9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
10 BEFORE THE HONORABLE PAMELA K. CHEN
UNITED STATES DISTRICT JUDGE
BEFORE A JURY

11 APPEARANCES

12 For the Government: UNITED STATES ATTORNEY'S OFFICE
13 Eastern District of New York
271 Cadman Plaza East
14 Brooklyn, New York 11201
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25 Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription

PROCEEDINGS

1 APPEARANCES: (Cont'd.)

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7 Flushing, New York 11354
BY: KEVIN K. TUNG, ESQ.

8 * * * * *

9 10 (In open court; Jury not present.)

11 THE COURTROOM DEPUTY: All rise.

12 THE COURT: Off the record.

13 (Discussion was had off the record.)

14 THE COURT: So I did want to come down and discuss I
15 think, two things related, the financial affidavit submitted
16 by Defendant Zheng and Defendant Zhu.

17 So first looking at Mr. Zheng's financial affidavit,
18 which, as it must be, is certified under the penalty of
19 perjury. It's a little confusing to me how this was filled
20 out. Mr. Zheng indicates he has no job, but then when asked
21 approximately how much money he has after monthly expenses, he
22 indicated \$600.

23 So he also indicates that he does have cash and
24 money in a savings or checking account, so the form,
25 admittedly, doesn't have him specify how much, so how much

PROCEEDINGS

1 money does he have in savings or checking?

2 MS. WONG: Your Honor, Mr. Zheng has indicated he
3 has \$604 in his bank account currently.

4 He was employed at a bubble tea shop prior to
5 starting this trial, and since he's here every day, he's
6 unable -- he had to leave that job. So that's the current
7 amount of money that he has in his bank account, your Honor.

8 THE COURT: So is that why he responded: Give the
9 total approximate amount after monthly expenses. That's why
10 he put in "\$600"?

11 MS. WONG: Yes, your Honor. And I don't believe
12 that this form is quite as substantial as, for example,
13 something we would submit to pretrial before sentencing in
14 terms of monthly cash flow and income. However, we would
15 submit that Mr. Zheng is not in a financial position to be
16 able to afford the transcripts in this case, which a daily
17 share of his transcripts is larger than what he has in the
18 bank.

19 THE COURT: His total assets?

20 MS. WONG: His total assets, yes.

21 THE COURT: Where does he live then, with his
22 family, because he doesn't report any rent?

23 MS. WONG: Yes, Your Honor, he lives with his
24 sister, your Honor.

25 THE COURT: And she let's him live there rent free?

PROCEEDINGS

1 MS. WONG: Yes.

2 THE COURT: All right. And then he reports a
3 thousand dollars in credit card debt.

4 Is that the current situation?

5 MS. WONG: Yes, your Honor.

6 THE COURT: And does he have any funds to pay that
7 off, or is he just letting it accrue?

8 MS. WONG: He thinks that he can ask his sister for
9 some assistance with his credit card bills.

10 THE COURT: I don't envy his sister.

11 All right, so I think with respect to Mr. Zheng,
12 he'll qualify to have the transcript fees paid for by CJA.

13 So you should submit a voucher request for that.

14 MS. WONG: Yes, your Honor.

15 THE COURT: And, Fida, correct me if I'm wrong on
16 that process.

17 THE COURTROOM DEPUTY: That's right. He has to
18 start a voucher.

19 THE COURT: Okay. Now let's turn to Mr. Zhu.

20 Mr. Zhu indicates in his affidavit, again sworn
21 under penalty of perjury, that he has a home that is worth
22 \$60,000 in Connecticut.

23 Is that correct, Mr. Tung?

24 MR. TUNG: Yes, your Honor.

25 THE COURT: Okay. So I don't understand how he

PROCEEDINGS

1 doesn't have the funds to pay for the transcript then. He has
2 an asset that has some value in it.

3 MR. TUNG: A \$60,000 house in Connecticut, that's
4 his house that he needs to live. He cannot sell this house to
5 pay for the transcript. The transcript will eventually cost
6 more than \$10,000.

7 THE COURT: Well, let me ask you a question. He
8 says he has no job, and he reports only -- well, he does
9 report housing expense of \$300, what is that?

10 Is the house under a mortgage?

11 MR. TUNG: No, I don't think so, I don't think he
12 has a mortgage.

13 No, I think it probably utilities.

14 THE COURT: Well, that's a separate category. He
15 put under housing \$300.

16 Why don't you have him clarify what he meant.

17 MR. TUNG: Your Honor, the \$300 he's talking about
18 is that he pays his son, because currently on trial, you know,
19 he has been in New York.

20 THE COURT: His son? He pays his son?

21 MR. TUNG: Yes, \$300 to stay in the apartment or
22 something, or house, yeah, a month.

23 THE COURT: Okay, so who owns the house in
24 Connecticut; he does, right?

25 MR. TUNG: He does, right.

PROCEEDINGS

1 THE COURT: Okay, so he has \$60,000 of equity in
2 that house.

3 MR. TUNG: Correct. But this is so basic that, your
4 Honor, you cannot force him to sell the house to buy
5 transcript.

6 THE COURT: Well, he certainly can get some kind of
7 a loan against it.

8 How does he plan to live if he has no job?

9 MR. TUNG: He's on retirement. Social Security or
10 something.

11 He says he has a retirement, few hundred dollars a
12 month he's getting, receiving.

13 THE COURT: How much does he get a month from Social
14 Security?

15 MR. TUNG: \$300.

16 THE COURT: Per month?

17 MR. TUNG: Per month, yeah.

18 He lives with his son right now.

19 THE COURT: All right. And normally does he live in
20 Connecticut?

21 MR. TUNG: Yes.

22 THE COURT: Okay, so how much does he have in his
23 savings or checking account? Because he indicated, yes, he
24 has some money.

25 MR. TUNG: \$600.

PROCEEDINGS

1 THE COURT: Total?

2 MR. TUNG: That's what he just told me.

3 THE COURT: Okay. Then when said he has a hundred
4 dollars after monthly expenses, what did he mean?

5 And let me ask, did someone translate this form for
6 him? Mr. Tung, perhaps you?

7 MR. TUNG: I'm sorry, he said that after --
8 sometimes after all these calculations number, he paid all the
9 expenses he has a net of hundred dollars left.

10 THE COURT: Okay. So he reports total monthly
11 expenses of \$500. Then you've just said he only has \$600 in
12 total in his checking account. And he gets \$300 a month,
13 roughly, in Social Security payments. And by his own
14 calculation, each month he has, between his incoming sums and
15 expenses, \$100 a month left over? Is that the gist of it?

16 MR. TUNG: That's about right, yeah.

17 Then he got a hundred dollars, I guess, he has to
18 pay for variety of things, traveling, I mean.

19 THE COURT: What did he do before he retired?

20 MR. TUNG: Doing errands, running errands.

21 He didn't have a fixed job, he just do something
22 here, here, there, there, you know, to earn some money.

23 THE COURT: Has he ever had a formal employer?
24 Because he's collecting Social Security.

25 MR. TUNG: He does -- he provides temporary labor to

PROCEEDINGS

1 construction companies.

2 THE COURT: And how long did he do that for?

3 MR. TUNG: He said from time to time, because his
4 age is old, so he couldn't do this for a long time.

5 He came over to the United States at a very late
6 age. He didn't get any education here, so he couldn't get any
7 other jobs.

8 THE COURT: How old was he when he came to the U.S.?

9 MR. TUNG: About 20 years ago, so that the age --

10 THE COURT: He wasn't that old.

11 MR. TUNG: Huh?

12 THE COURT: He wasn't that old then.

13 How old is he now?

14 MR. TUNG: He's 67. So minus 20 years, that's about
15 47, 40 -- beginning of -- close to 50.

16 People after 50 years old and they came to this
17 country, I don't think they can -- well, some people,
18 exception, your Honor, most people won't be able to get a good
19 job.

20 THE COURT: Is he telling you that he's essentially
21 for the last 20 years -- well, actually let me back up.

22 When did he retire, how old was he then?

23 MR. TUNG: About two years ago.

24 THE COURT: Okay. So for about 18 or so years then,
25 he worked doing odd jobs in the construction industry?

PROCEEDINGS

1 MR. TUNG: From time to time. He actually does
2 whatever he can find.

3 THE COURT: Okay.

4 MR. HEEREN: Your Honor.

5 THE COURT: Yes, please.

6 MR. HEEREN: May I ask the Court to inquire about
7 any foreign bank accounts or any foreign property that
8 Mr. Zhu --

9 THE COURT: Has access to?

10 MR. HEEREN: -- or has access to?

11 THE COURT: Does Mr. Zhu have access to any monies
12 in foreign bank accounts?

13 MR. TUNG: Let me ask him, your Honor.

14 THE COURT: Now mind you, none of this is under oath
15 so these are not statements that he's making formally, but
16 rather his lawyer is making these representations purely for
17 the purpose of my deciding whether he qualifies to get CJA
18 funds to pay for the transcript.

19 MR. TUNG: Your Honor, he just told me he doesn't
20 have any money in foreign accounts.

21 THE COURT: None in China, for example?

22 MR. TUNG: That's what he just told me.

23 THE COURT: Okay. Based on the fuller understanding
24 of Mr. Zhu's assets, I'll also certify him to get CJA funding
25 to pay for the -- his share of the transcript costs.

PROCEEDINGS

1 And so, Mr. Tung, make an application for those
2 funds.

3 MR. TUNG: Thank you.

4 THE COURT: Okay. We're ready to go?

5 Okay, so we'll have our witness back up here.

6 So, Mr. Tung, you have to use the eVoucher system.

7 You looked shocked.

8 MR. TUNG: eVoucher system?

9 THE COURT: Yes. I fear that you don't know what
10 that is.

11 MR. TUNG: No, not at all, but we'll try to figure
12 out.

13 THE COURT: Okay. Just call the clerk's office,
14 although they're not -- I think the staffing today is minimal
15 because of the smoke hazard.

16 MR. TUNG: Okay. Thank you.

17 THE COURT: So just take care of it, obviously,
18 before the trial is over.

19 MR. TUNG: Okay.

20 MR. HEEREN: Your Honor, I just note, and this is
21 fine to say in front of the witness, given what the Court said
22 to us yesterday, we've endeavored to tighten things up.

23 THE COURT: Okay. Again, I never want to tell any
24 party how to try their case, but my goal is to ensure that the
25 jury's time is not -- and I use this word somewhat loosely

1 "wasted" or at least unnecessarily spent, and especially
2 because we have this looming environmental issue that
3 threatens to shorten our trial days.

4 But thank you, I appreciate the government
5 considering my suggestions.

6 (The witness takes the stand.)

7 THE COURT: How are you?

8 THE WITNESS: Good. Thank you.

9 THE COURT: All right, good. Good morning.

10 THE WITNESS: Good morning.

11 THE COURTROOM DEPUTY: All rise.

12 (Jury enters courtroom.)

13 THE COURT: Please be seated, everyone.

14 Good morning, ladies and gentlemen. It's very good
15 to see all of you, and thank you very much for coming in and
16 being timely again today, despite the current circumstances
17 we're all facing.

18 I do want to assure you that Ms. Gonzalez did ask
19 our facilities folks to turn off the air conditioning, because
20 we understand that when the HVAC system is shut down, air from
21 the outside is not drawn in to the building. So that will
22 minimize the discomfort, we hope.

23 But you've all been provided with KN95 masks, which
24 you should feel free to don at any point if you feel
25 uncomfortable. And certainly if anything comes up, if anyone

1 wants to take a break, because of the circumstances, just
2 raise your hand and let me know.

3 So with that, we will continue the examination by
4 the government of this witness.

5 Mr. Heeren.

6 MR. HEEREN: Thank you, your Honor.

7 Continued on next page.)

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TARKIN - DIRECT - MR. HEEREN

1 **JEFFREY TARKIN**, called as a witness, having been previously
2 first duly sworn/affirmed, was examined and testified further
3 as follows:

4 DIRECT EXAMINATION (Continued)

5 BY MR. HEEREN:

6 Q Good morning, Mr. Tarkin.

7 A Good morning.

8 MR. HEEREN: Good morning, ladies and gentlemen.

9 THE JURY: Good morning.

10 MR. HEEREN: Mr. Tarkin, if you could please just
11 move the mic a little bit closer to yourself. Thank you.

12 I'd like to publish for the jury and the witness
13 what's been previously admitted as Government's Exhibit 805B,
14 starting at page 5 of the exhibit.

15 (Exhibit published.)

16 MR. HEEREN: One second, your Honor.

17 THE COURT: Yes.

18 MR. HEEREN: Your Honor, may I approach the witness?

19 THE COURT: You may.

20 Q Mr. Tarkin, I've placed a binder of unredacted exhibits
21 in front of you so that you have it available. I don't
22 anticipate asking you a question about it, but should you need
23 to refer to it, you may do so.

24 Do you understand that?

25 A Yes.

TARKIN - DIRECT - MR. HEEREN

1 Q All right. Just to reorient the jury, can you please
2 tell us who the chat messages we see reflected in Government
3 Exhibit 805B is between?

4 A McMahon Michael, (914)450-9169. And Johnny Zhu,
5 Endlessjohnny@gmail.com.

6 Q And beginning at -- what time does these chat messages
7 begin on this page, the first chat message?

8 A April 6th, 2017 at 4:27 p.m.

9 Q And could you please read into the record the right side,
10 and I will read into the record the left side, and we are
11 going to go until page 8, for Ms. McMahon's purposes.

12 A MC have you send yet?

13 Q Photos, yes. Of subject.

14 A I don't receive any pictures yet.

15 STH wrong with the MMS.

16 Q Okay. I'll try your email.

17 A Okay. Send all the pictures to ExJohnnyZ@yahoo.com, and
18 the address of the house.

19 Q And then there is a redaction. And then it says Warren,
20 New Jersey.

21 And, again, for the record, both the jurors and the
22 witness can review that redaction.

23 A Does the town match up his father's description, which
24 has a lot of Asians.

25 Q Upper class area, not sure of racial break down.

TARKIN - DIRECT - MR. HEEREN

1 Expensive homes. I sent photos to email.

2 A Nice work. I'm sending to the company where you and your
3 dude at right now.

4 Q What does that mean? Is that him?

5 A IDK. I never meet him in person. Have to send to Eric
6 to see what he thinks.

7 Are you still there?

8 Would you be able to get the plate number for what
9 he's driving.

10 Q Yes. I'll resend to you.

11 A Okay. TY.

12 And one more thing, did you see his father?

13 Q No, never saw the father today.

14 I just sent more photos to email.

15 A K. I'm waiting for email arrives. Let me call China and
16 get further instruction.

17 Q Okay.

18 Another interesting note, he was wearing a hat and
19 sunglasses in the pouring rain.

20 A Yeah, I notice. MC we can dismiss today. I will let you
21 know whether they need you to run info check for plate and
22 house tonight. I will notice you tonight. Thank you so much
23 and good job.

24 Q Okay.

25 A Safe drive, and I will call you before 10 p.m.

TARKIN - DIRECT - MR. HEEREN

1 Q Okay. Thanks.

2 And we can stop there.

3 I want to turn now to what's been previously
4 admitted as Government's Exhibit 2002.

5 (Exhibit published.)

6 And first directing your attention to the header of
7 this email.

8 What's the subject of this email?

9 A Photos.

10 Q Who is it sent from?

11 A Mike@McMahonInvestigativeGroup.com.

12 Q And who is sent to?

13 A Exjohnnyz@yahoo.com.

14 Q And what was the date and time this was sent?

15 A April 6, 2017, 4:38 p.m.

16 MR. HEEREN: And if we could just close the call out
17 from the first call out, the first picture, Ms. McMahon, to
18 show to the jury. You can close that up.

19 (Exhibit published.)

20 And if you can scroll down to the second picture.

21 You can close that up.

22 You can scroll down, you don't need to call out the
23 next pictures. Keep scrolling.

24 Okay. Turning now to what's been previously
25 admitted as Government's Exhibit 2006.

TARKIN - DIRECT - MR. HEEREN

1 Q And I'd like to direct your attention first to the
2 bottom-most email on this first page, if you can show the
3 header.

4 Does this appear to be an email from
5 McMahonInvestigativeGroup.com to ExJohnnyZ@Yahoo.com?

6 A Yes.

7 Q On April 6, 2017 at 4:51 p.m.?

8 A Yes.

9 MR. HEEREN: And if we can close that up and scroll
10 down to what was sent in that email. You don't need to call
11 it out. Thank you.

12 You can scroll to the next one, please.

13 You can scroll through the rest, please.

14 Now can we just go back to the first page, please?
15 Could you blow up the top half of the page. Thank you.
16 That's enough.

17 Q Directing your attention to the second of the two emails
18 in this thread, the bottom of the two.

19 Does that original email that we just reviewed
20 appear to have been forwarded?

21 A Yes.

22 Q And what was it sent from and to?

23 A ExJohnnyZ@Yahoo.com to EndlessJohnny@gmail.com.

24 Q And then was that, looking at the top-most email, does
25 that email appear to be forwarded again?

TARKIN - DIRECT - MR. HEEREN

1 A Yes.

2 Q And what is the -- can you read into the record the email
3 address that this was forwarded to?

4 A 19960165@QQ.com.

5 MR. HEEREN: And I'd like to place this side by side
6 with what's been previously admitted as Government's
7 Exhibit 431K at page 3, please. Well, start at page 1.

8 Can you just blow up the headshot and identifying
9 info.

10 Q What's the surname and given name here?

11 A Sun, S-U-N. Hui, H-U-I.

12 Q Okay. And just turning to --

13 MR. HEEREN: You can close that call out. Turn to
14 page 3.

15 If you could blow up the email address right where I
16 marked, please. And if you could blow up Government's
17 Exhibit 2006.

18 Q Mr. Tarkin, do those appear to be the same email
19 addresses?

20 A Yes.

21 MR. HEEREN: You can close that up.

22 Turning back, if we could, please republish
23 Government's Exhibit 805B, now at page 8.

24 Q And, Mr. Tarkin, I won't ask you to restate it each time,
25 but is this the same chat messages we were looking at a few

TARKIN - DIRECT - MR. HEEREN

1 moments ago?

2 A Yes.

3 Q Beginning at the bottom-most blue chat, can you tell us
4 the date and time that was sent and then begin reading.

5 And we're going to continue as we've been doing for
6 the next several pages until page 10, Ms. McMahon.

7 A April 6th, 2017, 7:22 p.m.

8 MC please run info check for plate and house ASAP.
9 We don't need to monitor their activity until we have some
10 info for those.

11 Q Okay.

12 And then an attachment is sent of an image.

13 If you can please call that out, Ms. McMahon. The
14 image has been redacted.

15 Below the first redaction it says Short Hills, New
16 Jersey -- Short Hills, NJ.

17 You can close that up.

18 And then it says, Car is owned, parentheses, not
19 leased. Xu Bai. There is a redaction. And then it says,
20 Short Hills, NJ.

21 A Got it. No finance, no lease?

22 Q Correct.

23 A Thanks MC, GJ. BTW, how long it takes to the house?

24 Q Forty-five minutes.

25 A Thanks MC. Nice work.

TARKIN - DIRECT - MR. HEEREN

1 Q I have been doing computer checks since I got home. I
2 sent you some emails.

3 A Got it. Thanks MC.

4 Good afternoon MC, we want to monitor the new house
5 and Xu's activity, X-U-S, activity on next Monday.

6 Q And, Mr. Tarkin, when did this -- when did the text
7 message begin that begins "good afternoon MC"?

8 A April 7, 2017 at 12:08 p.m.

9 MR. HEEREN: I want to -- we can stop there.

10 If we could turn to what's been previously admitted
11 as Government's Exhibit 40, 4019B, as in boy, at page 245.

12 If we can show the participants just to reorient the
13 jury again for the first time.

14 Q Could you please tell us who the participants are,
15 according to Exhibit 4019B?

16 A Mike McMahon, (914) 450-9169. And Eric Gallowitz,
17 EGallowitz@StuyvesantInvestigative.com.

18 MR. HEEREN: And you can close that.

19 Q And just looking at the first blue text on the left-hand
20 side.

21 According to 4019B, who is this initial message
22 from?

23 A Mike McMahon.

24 Q Okay. And who is it to?

25 A EGallowitz@StuyvesantInvestigative.com.

TARKIN - DIRECT - MR. HEEREN

1 Q Okay. And when was this sent?

2 Or excuse me, what's the date and times associated
3 with this text message?

4 A April 6th, 2017, 7:54 p.m.

5 Q I will read the left side blue messages. If you can read
6 the right side green messages. And we're going to read a
7 series of these until we get to page 257. Okay?

8 A Yes.

9 MR. HEEREN: And I'm sorry, we should have -- one
10 too far, can we please go back to page 244.

11 Q So starting with the text message on page 244, if you can
12 please read the substance of it.

13 A How did it go?

14 Q Great. Got 'em.

15 A Cool. And.

16 Q Very evasive maneuvers. Followed him an hour away and
17 got where he's living.

18 A Nice. And.

19 Q Client very happy.

20 Home now.

21 A Further surveillance?

22 Q Not sure. Waiting for a call.

23 A Yeah. From NJ State Police about an abduction.

24 MR. HEEREN: Next one.

25 Q LOL.

TARKIN - DIRECT - MR. HEEREN

1 MR. HEEREN: Turning now to what's been previously
2 admitted as Government's Exhibit 2005.

3 Just blow up the top, please.

4 Q What's the subject of this email?

5 A Earlier vehicle sightings report.

6 Q And when was it sent?

7 A April 6, 2017, 8:21 p.m.

8 Q And was this sent from the McMahon email account to the
9 ExJohnnyZ email account?

10 A Yes.

11 MR. HEEREN: If you could, please, close that up,
12 Ms. McMahon, and show the photo. Thank you.

13 (Exhibit published.)

14 MR. HEEREN: Okay. You can close that.

15 If you can just scroll down to the second page that
16 you do not have to call out.

17 Q Turning now to Government's Exhibit 805B again,
18 previously admitted. At page 10.

19 And if you could please begin where we last left off
20 at, good afternoon MC.

21 A Good afternoon MC. We want to monitor the new house and
22 Xu's activity on next Monday.

23 Q Okay.

24 A Where he work, who he meets mostly, and where he usually
25 go, and how is the house info check?

TARKIN - DIRECT - MR. HEEREN

1 Q I sent it yesterday through email. Did you receive?

2 A Will check. Thanks MC. Have a good weekend. We start
3 to monitor the new house on Monday 9 a.m.

4 I'm driving using voice text. Will check when I
5 stop.

6 Q Okay. I may need to meet you before Monday and get more
7 money. Not sure we have enough money to work two guys all
8 day. I'll go over the invoice and let you know how much money
9 is left.

10 A Okay. Send me the invoice PLZ tonight so I can discuss
11 with them tonight.

12 Q Okay.

13 I just invoice via email. Let me know.

14 A I will forward it to China. Let you know tonight.

15 Q Okay. Thanks.

16 MR. HEEREN: Turning to what's been previously
17 admitted as Government's Exhibit 2011, if we could publish
18 that, please.

19 (Exhibit published.)

20 Just blowing up the entire first half of the page,
21 please. That's good. Thank you.

22 Q What's the subject of this email?

23 A Invoice from McMahon Investigative Group.

24 Q Is this another email from the McMahon email account to
25 the ExJohnnyZ email account?

TARKIN - DIRECT - MR. HEEREN

1 A Yes.

2 Q And when was this sent?

3 A April 7, 2017, 4:42 p.m.

4 Q Okay. Could you read the sentence that begins, "I
5 proposed about."

6 A I proposed about 10 hours of surveillance for Monday for
7 each investigator. So it would be a total of 20 hours,
8 parentheses, 10 by 2, close parentheses, for the day plus the
9 extra, parentheses, miles, travel time, et cetera, close
10 parentheses. Let me know as soon as you can about the invoice
11 approval. It's about 1500 more. Also, need to know as soon
12 as possible to have investigators ready for Monday if we are
13 approved.

14 MR. HEEREN: And, Ms. McMahon, if you could please
15 scroll to -- if you could please blow up the bottom portion of
16 this page.

17 Q Does the email indicate that there's an attachment?

18 A Yes.

19 MR. HEEREN: If we can just scroll to the next page.

20 If you could blow up just the top portion, please,
21 all the way down to the date.

22 Could you capture the portion that says "invoice" as
23 well, please, on the top right.

24 Q Does this appear to be an invoice, Mr. Tarkin?

25 A Yes.

TARKIN - DIRECT - MR. HEEREN

1 Q Who is it billed to?

2 A Johnny Zhu, Z-H-U.

3 Q Okay. Thank you.

4 MR. HEEREN: You can close that up, Ms. McMahon.

5 Could you please publish what's been previously
6 admitted as Government's Exhibit 2-0-1-2. 2012.

7 If you could please blow up the top half of the
8 page.

9 (Exhibit published.)

10 Q Is this another email from the McMahon email account to
11 the ExJohnnyZ email account?

12 A Yes.

13 Q What's the subject?

14 A Lifetime company info.

15 Q Okay. And when was this sent?

16 A April 8, 2017 at 4:19 p.m.

17 MR. HEEREN: And if you can scroll down.

18 Q Does there appear to be an attachment to this email?

19 A Yup, yes.

20 MR. HEEREN: You can close that up.

21 Turning now back to Government's Exhibit 805B at
22 pages 12 to 14, previously admitted -- or starting at page 12,
23 I should say.

24 Q Mr. Tarkin, would you please again read the right side of
25 the chat messages, and I'll read the left side. And before

TARKIN - DIRECT - MR. HEEREN

1 you begin, could you just identify the date and time that the
2 first chat message was sent?

3 A April 7, 2017, 8:26 p.m.

4 MC would you able to run the info for J Lifetime
5 lock. J Lifetime LLC.

6 Q Yes. I recall from the last investigation that
7 J Lifetime also owned our subject's home in Short Hills. I
8 work on this and send it over. Eric should remember that.

9 A Yeah, I already send invoice and those info to Eric.
10 They will conduct a meeting today. They will review the
11 invoice and I will let you know.

12 Q Okay.

13 Sent email on J Lifetime.

14 A What did you say in email?

15 Q I sent a report of the company named J Lifetime.

16 A Okay MC. I spoke with my company last night. They want
17 you to monitor on Monday but with one person. I haven't get
18 reply from invoice yet. I think they are okay with it. Can
19 you start on Monday first, and I will come to your office by
20 Tuesday. And they want one person to do the job this time
21 instead of two.

22 Q It will be impossible for one person to watch him. I was
23 going to recommend three investigators.

24 A All right, let me talk to them tonight.

25 Q He lives on a quite street. The second investigator

TARKIN - DIRECT - MR. HEEREN

1 would be one street away.

2 This is now April 8th, 2017 at 7:30 p.m.

3 So your company only wants one investigator for
4 Monday? I don't recommend it but just let me know ASAP.

5 A April 9th, 2017, 8:24 a.m.

6 MC how much retaining fee you want on Monday so I
7 can prepare before I get to you.

8 Q 2,000 should be okay.

9 A Yeah, I will bring it over to you today. Is that okay
10 for you?

11 Q Yes.

12 A Should be around 3 p.m. Where we meet?

13 Q Want to meet at the same place we met before? Panera
14 Bread on Route 17 in Paramus.

15 A Yeah, I see you there.

16 Q Okay.

17 A Eric said he had the info of J Lifetime. You actually
18 gave it to him. The company wants the property list which be
19 long J Lifetime. Can you do that? Belong.

20 Q Yes, correct. I just wanted you to have it. It shows
21 the relationship between the house in Short Hills and the
22 house in Warren, NJ. I will try to obtain that.

23 MR. HEEREN: Keep going.

24 A K. THX.

25 Q It may be difficult as people try to hide assets.

TARKIN - DIRECT - MR. HEEREN

1 A Okay.

2 MC can I deposit cash to your account instead of
3 driving two hours.

4 Q How do you do that?

5 A You tell me your bank and account number, I will go to
6 the branch and deposit cash to your account, then take a
7 picture of the receipt. I used to do that a lot. Just like
8 you deposit your cash to your account.

9 Q Okay. TDBank account number, and it ends 5949. Michael
10 McMahon.

11 A Okay, I will do that ASAP.

12 Q Okay.

13 A Bank will be open on 11 a.m.

14 Q Okay.

15 A Already deposit. Check account after five min.

16 Q Okay.

17 A Has the money posted on your account MC?

18 Q Yes, all good. Thanks.

19 Do you have any intel on where our subject may go
20 tomorrow? Do you think 9 a.m. is too late to start? Do you
21 think he works?

22 A We don't think he works like people normally do because
23 he doesn't need to. As the last time he show up in Short
24 Hills, we can assume he is very flexible in weekdays and may
25 not be going out before 9 a.m. Remember what time he shows up

TARKIN - DIRECT - MR. HEEREN

1 last Thursday in Short Hills?

2 Q 1 p.m. in Short Hills.

3 A Yeah, he must left home around 12.

4 Q I think the money he stole is involved with J Lifetime.

5 The person who owns J Lifetime has the missing money. We

6 should check the banking records of the owner.

7 A Yeah. Can you run that?

8 Q I can run the bank checks. I did a few for Eric, but
9 they are expensive. It gives the amount of money they have in
10 their account and locations of their -- of the, their banks.

11 A Stand by. I will inform your suggestion to the company
12 tonight. Will let you know but monitoring on TMR is
13 confirmed.

14 Q Okay.

15 A They ask what kind of detail information you can get if
16 after bank checks.

17 Q A search includes names of all the banks in U.S.A. that
18 the person uses. It will also tell me the amount of money in
19 each bank and when the last deposit was made. Eric may have a
20 copy of one I did for him.

21 A Is there any way to get all the assets and property info
22 from the company, but not only the bank records.

23 MR. HEEREN: Sorry, I think we skipped one page.

24 Could you please go back one page? Thank you.

25 Q Can you start over, Mr. Tarkin, from "yeah, can you run

TARKIN - DIRECT - MR. HEEREN

1 that"?

2 A April 9, 2017, 5:20 p.m.

3 Yeah, can you run that?

4 Q I can run the bank checks. I did a few for Eric, but
5 they are expensive. It gives the amount -- I apologize, I'm
6 reading it twice.

7 Please go to page 20 now.

8 Sorry, Mr. Tarkin, please go ahead.

9 A Is there any way to get all the assets and property info
10 from the company, but not all the bank records. And indeed,
11 is there any way you can track their hidden assets like stock,
12 bonds, investment activities?

13 Q Yes, I can possible do that. I can run the company and
14 the officers of the company. If I can get their Social
15 Security numbers, I should be able to track down their
16 numbers.

17 A How do you get their SS number? This is the key.

18 We talk about this after TMR. They want to figure
19 out their physical activities first. THX for all of these,
20 appreciate your hard work. Let me know when you are in
21 position TMR and let's get the work rolling out. Good night.

22 Eric said you had all of their SS numbers. Four of
23 them.

24 Q Okay. Good night.

25 MR. HEEREN: We can stop there.

TARKIN - DIRECT - MR. HEEREN

1 And if we can go back to page 17, please. Sorry --
2 yes. Page 17, please.

3 Could you blow this up side by side with
4 Government's Exhibit 403F, which has been previously admitted.
5 Excuse me, it has not been previously admitted. Please take
6 it down.

7 So can we please show for the witness and defense
8 counsel only, Government's Exhibit 403F.

9 And the government would move to admit Government's
10 Exhibit 403F, pursuant to stipulation at Government's
11 Exhibit 2022.

12 MR. LUSTBERG: No objection.

13 MS. WONG: No objection.

14 MR. TUNG: No objection.

15 THE COURT: Admitted. You may publish.

16 (Government Exhibit 403F, was received in evidence.)

17 (Exhibit published.)

18 (Continued on the next page.)

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1 MR. HEEREN: That was 805B at page 17.

2 If you could just blow up -- before we blow it up.

3 DIRECT EXAMINATION (Continuing)

4 BY MR. HEEREN:

5 Q Does Government Exhibit 405 appear to be a portion of
6 bank account information, Mr. Tarkin, if you could blow up the
7 top half of the page?

8 A 403.

9 Q 403F?

10 A Yes.

11 Q Okay. Do you see that a little bit better now?

12 A Yes.

13 Q Do you see where it says type of account?

14 A Yes.

15 Q What type of account is that?

16 A TD student checking.

17 Q Okay. And do you see the customer date of birth, the
18 year of birth that we have unredacted here?

19 A Yes.

20 Q What's the year of birth?

21 A 1998.

22 Q So would that person have been approximately 19 years old
23 in 2017?

24 A Yes.

25 Q Okay. And turning to the account number, what's the last

1 four digits of the account number?

2 A 5949.

3 MR. HEEREN: Okay. And for the record the
4 unredacted version of this exhibit is available for the jurors
5 and the witness.

6 And could we just please look back at 805B on the
7 other side. Blow up the topmost message.

8 Q Does that account end in the same four account numbers?

9 A Yes.

10 Q Okay. All right. You can close 403 F but keep 805 open,
11 please.

12 Could you go to the page prior. Excuse me. Page
13 18. Sorry. Page 17. My fault. Okay.

14 Q And do you see the message that says already deposit
15 check account after five min?

16 A Yes.

17 Q What was the date and time that was sent?

18 A April 9, 2017, 11:02 a.m.

19 MR. HEEREN: Okay. If we could please go to
20 Government Exhibit 403G. Please don't open that yet. Could
21 you please show what has been marked for identification only
22 as Government Exhibit 403G to the witness and counsel.

23 The Government would move to admit Government
24 Exhibit 403G into evidence pursuant to stipulation.

25 MR. LUSTBERG: No objection.

1 MS. WONG: No objection.

2 MR. TUNG: No objection.

3 THE COURT: Admitted. You may publish.

4 (Government Exhibit 403G, was received in evidence.)

5 MR. HEEREN: Could you please blow up the left-hand
6 most quadrant, please.

7 Q Mr. Tarkin, does this appear to be a checking deposit
8 slip?

9 A Yes.

10 Q Okay. And do you see the amount of money entered into
11 the deposit slip?

12 A Yes.

13 Q How much is reflected on this?

14 A \$2,000.

15 Q And do you see the name handwritten in?

16 A Yes.

17 Q And the date? What is the date and the name this was
18 sent to?

19 A April 9, 2017, Michael McMahon.

20 Q Do you see the account number below that?

21 A Yes.

22 Q Is that the -- is the last four digits of that account
23 number the same account number we've seen in the chat thread
24 as well as in the bank account information?

25 A Yes.

1 Q Okay. And then scrolling down to the next quadrant, do
2 you see that this indicates it's a cash ticket?

3 A Yes.

4 MR. HEEREN: Okay. And if you could please blow up
5 a little bit more where it says store name, if possible.

6 Q Do you see where it says store name?

7 A Yes.

8 Q What is the store name reflected?

9 A 50th and Broadway.

10 Q Is there a 50th Street and Broadway in Manhattan?

11 A Yes.

12 MR. HEEREN: You can close that up.

13 Turning now back to what's been admitted into
14 evidence as Government Exhibit 805B at page 21, please.

15 Q And Mr. Tarkin, if you could please read the right side
16 and I'll read the left side and identify the date and time of
17 that first message before we begin, and we're going to go
18 through page 25, please.

19 A April 10, 2017, 10:18 a.m. Morning. Any activity there
20 MC?

21 Q No activity all quite.

22 A Can I see the cars? I mean, can you, can you see their
23 cars?

24 Q No. He parks inside the garage. There are no cars in
25 the driveway.

1 A Okay. Thx, let me know if anything happen.

2 Q Okay. When is his father going back to China? When are
3 you going back to Minnesota?

4 A I will stay here as long as the company require. His
5 father scheduled flight is April 12. But we don't have any
6 intel yet he will go for that flight.

7 Q Okay. Okay.

8 A It should be the long work. They already told me they
9 will try everything they can to get Xu plead and return the
10 money.

11 Q Okay. Good. Were they happy with the photos of the
12 subject?

13 A They are indeed. They want me to handle all the work of
14 this project in the future and you.

15 Q Great.

16 A I might travel a lot upon this situation.

17 Q Travel is good. Lucky guy.

18 A I smoke, sitting in a flight for 15 hours straight is
19 horrible ha, ha.

20 Q Oh, no, bad habit.

21 A I was gonna recommend you to start a branch in Flushing
22 NY. There is a lot of demand of your business type.

23 Q Oh, really? I am licensed in New York. Not to far from
24 my home. Only 35 minutes.

25 A Yeah. There are a lot of Asians demand private

1 investation and attorney service. Divorced, foreign fraud.
2 Property investigation.

3 Q I will give a percentage to you if you bring me clients.

4 A I am a used car dealer in U.S. but they hire me for their
5 U.S. work for part-time. I used to ship a lot of cars to
6 Eric's company. I will my friend. I can create China website
7 and do some adds for you.

8 Q Oh, okay.

9 A I'm gonna drive to Long Island. Keep me informed. I
10 will try to stop and respond you if urgent.

11 Q Okay. How did the company in China find you and Eric to
12 work in this case?

13 A Eric works for them in China. I used to send cars to
14 them from U.S. so they know me.

15 Q Oh, okay. He just arrived home. He must have left early
16 this a.m.?

17 A Damn, he might go out any time let's keep watching him.

18 Q Okay.

19 MR. HEEREN: We can stop there. Actually, we can
20 keep going.

21 Q Still quite here. What's the plan for tomorrow?

22 A We start on 7:00 a.m. tmr.

23 Q Okay. Need more money then.

24 A The balance can't even cover tmr? Disconnected, call me
25 when you are available.

Heeren - direct - Tarkin

1 Q Balance would cover only two hours for tomorrow.

2 MR. HEEREN: You can close that up.

3 I actually apologize. Can you please republish what
4 has been admitted as Government Exhibit 805B and turning to
5 page 26.

6 Q Let's continue reading from page 26, Mr. Tarkin. The
7 first message is at April 10, 2017, 5:22 p.m. Surveillance is
8 very expensive.

9 A K. I will speak with the company tonight.

10 Q They are back in the car. Looks like they're heading
11 back to Warren, NJ. He's in the back seat hiding.

12 A Try take a picture. As you are experience do you think
13 he is intentionally hiding? And they might stop somewhere for
14 dinner, keep an eye on him.

15 Q Yes, 100 percent hiding.

16 A Do you he knows you are tracking him?

17 Q No.

18 A Okay. Let's keep watching, let me know anything GJ MC.

19 Q Okay. Thanks. And let me know about tomorrow
20 surveillance as soon as you know.

21 A Ofc MC.

22 Q What is ofc?

23 A Of course, lol.

24 Q Oh, lol.

25 A Rofl, I bet you barely do internet chatting lol.

1 Q Subject home in the garage, Warren NJ.

2 A Dismiss MC thx for today I will let you know asap
3 tonight.

4 MR. HEEREN: The next page, please.

5 Q Okay. Thanks.

6 A Send me an e-mail with invoice if possible did you see
7 Xu's father?

8 Q No, did not c father.

9 A All right. Got it, I call you tonight. MC you have a
10 picture of the Lexus?

11 Q You can stop there, Mr. Tarkin.

12 MR. HEEREN: If we could please go to what's been
13 previously admitted as Government Exhibit 2019. If you could
14 blow up the top half of the page, please, Ms. McMahon.

15 Q Look at the bottom e-mail, who is this e-mail sent from
16 and to?

17 A Mike@mcmahoninvestigativegroup.com to
18 exjohnnyz@yahoo.com.

19 Q And when was this sent?

20 A April 10, 2017, at 4:29 p.m.

21 Q Does it appear that this e-mail is forwarded?

22 A Yes.

23 Q And directing your attention in the "to" line, does this
24 appear to be the same qq.com e-mail address that you looked at
25 previously?

1 A Yes.

2 MR. HEEREN: Ms. McMahon, if you could just scroll
3 down to the picture and you don't need to call it out.

4 Actually, please do call it out.

5 Now, if I could please publish Government
6 Exhibit 2020 which has previously been admitted into evidence.
7 If you could please call out the top half of the page.

8 Q Does this e-mail appear to reflect the same e-mail and
9 forwarding process as the prior e-mail from the McMahon e-mail
10 account to the Johnny Z e-mail account and then forwarded to
11 the qq account?

12 A Yes.

13 Q And was this also sent on April 10, 2017?

14 A Yes.

15 MR. HEEREN: If you could please show the second
16 page of this exhibit, Ms. McMahon, and if you could call that
17 out. If we could please go back to Government Exhibit 805B,
18 which has been previously admitted at page 28.

19 Q And do you see, Mr. Tarkin, the text message that begins
20 MC, I will deposit 1k?

21 A Yes.

22 Q When was that message sent?

23 A April 10, 2017, 7:50 p.m.

24 Q Could you read that message and I'll read the next one
25 and we will continue to the next page, please.

Heeren - direct - Tarkin

1 A MC I will deposit 1k to your account tmr morning.
2 Company want to switch to lightweight surveillance with one
3 person tmr until further notice. They are discussing how we
4 gonna handle this week. We will send one agent until they
5 tell us what to did.

6 Q Okay. Sounds good. I sent you the photo of Lexus to
7 your e-mail.

8 A There is no plate and no visual of Lexus car can you
9 confirm and send again plz.

10 Q Okay. Just resent photos to you let me know if they go
11 through.

12 A I got it this time thx MC.

13 Q I just sent two more photos. It looks subject in back
14 seat.

15 A Yeah, MC can you plz start monitor tmr on 8:00 a.m. I
16 will deposit money to you before 9:00 a.m.

17 Q Yes, I will be there at 8:00 a.m.

18 A April 11, 2017, 8:26 a.m. morning MC I'm on my way to TD
19 Bank, are you in position?

20 Q Yes. Thanks.

21 A Already deposit 1k.

22 Q Great. Thanks. Mostly quite this a.m. That gray Lexus
23 pulled in the driveway again. Then quickly left.

24 A Do you follow the Lexus?

25 Q It drove to number.

1 MR. HEEREN: And then there's a redaction with an
2 address below it that the jury and the parties can see and the
3 witness can see.

4 Q -- just a few house away, looked like the people went
5 inside. MEBE left 30 min ago. It went through a red light
6 and I lost it for 10 min or so. It's now back home.

7 A All right. Have you seen Xu?

8 Q Yep saw him but lost him. I got stuck behind a red
9 light.

10 MR. HEEREN: You can close that up. If we can
11 please mark for identification for the witness and counsel
12 only Government's Exhibit 403H.

13 The Government would move to admit Government
14 Exhibit 403H pursuant to stipulation.

15 MR. LUSTBERG: No objection.

16 MS. WONG: No objection.

17 MR. TUNG: No objection.

18 THE COURT: Admitted. You may publish.

19 (Government Exhibit 403H, was received in evidence.)

20 MR. HEEREN: And Ms. McMahon, if you could please
21 blow up the top left quadrant again.

22 Q Mr. Tarkin, does this appear to be another checking
23 deposit slip?

24 A Yes.

25 Q Does it appear to be a checking deposit slip to the same

1 account as the prior checking deposit slip?

2 A Yes.

3 Q What date was this checking deposit slip made out for?

4 A April 11, 2017.

5 Q And how much money was that made out for?

6 A \$1,000.

7 Q Okay. Directing your attention now to the bottom left
8 quadrant of 403H.

9 MR. HEEREN: If we can call that out, please.

10 Q Does this also appear to be a cash ticket?

11 A Yes.

12 MR. HEEREN: Okay. And if we could blow up -- it's
13 small here. If we could blow up the store name, please.

14 Q It's a little fuzzy, but can you make out the store name
15 information?

16 A Barely.

17 Auburndale, New York.

18 Q Do you know where Auburndale is, in New York?

19 A I believe it's in Queens.

20 MR. HEEREN: Okay. If we can go back to Government
21 Exhibit, what's previously admitted at Government Exhibit
22 805B, at page 31.

23 Q If you could read the remainder of this page with me;
24 Mr. Tarkin.

25 A April 11, 2017, 3:05 p.m. That's okay who else in the

1 car? Who is driving?

2 Q He was by himself. It's tough with one guy.

3 A Driving with Lexus?

4 Q No, he was driving with MEBE.

5 And you can stop there.

6 MR. HEEREN: If we could please now publish what has
7 been previously admitted as Government Exhibit 4019B, at page
8 292. If we can show the participants briefly.

9 Q And to re-orient the jury again, is this chats between
10 Mike McMahon and Eric Gallowitz according to Government
11 Exhibit 4019B?

12 A Yes.

13 Q If you could please read the green chats. I'll read the
14 blue chats.

15 Before you read the chat, does this chat reflect
16 that it was sent by the owner Eric Gallowitz?

17 A Yes.

18 Q Please go ahead and read the chat and we will read until
19 page 298.

20 A Did you meet the guy?

21 Q Yes. Briefly. They are thinking of what to do. They
22 are hoping his father convinces him. To return the money.

23 A Lol rofl.

24 Q Lol.

25 A Maybe overt surveillance. In their face. Sit in front

1 of the house, pictures. Video. Scare them.

2 Q Yeah, possibly we did that in little ferry.

3 MR. HEEREN: Turning now to what has been marked
4 previously admitted as Government Exhibit 805B at page 31.

5 Q Do you see the chat message about a third of the way down
6 that's dated 4/11/2017 at 3:08 p.m.?

7 A Yes.

8 Q Could you begin reading there on the right-hand side and
9 I'll read the left-hand side.

10 A Yeah, I know, I have to go to clean tmr morning for the
11 meeting. I will let you know what's the next plan, I will
12 contact you as soon as we got details.

13 Q Okay. Good luck, safe travels I'll let you know if he
14 comes back. Let me know if I need to go the China lol.

15 A Yeah I am giving you my oversee number in case you need a
16 contact. They definitely grant you a nice trip if they can
17 get Xu back to China, ha, ha.

18 Q Oh, nice. I think if we harass Xu, park outside his home
19 and let him know we are there. I did that before on another
20 case.

21 A We can't harass Xu like that lol.

22 Q Okay. Lol.

23 A We have no information for his father until now?

24 Q I have not seen him.

25 THE COURT: I will just note for the record that

1 what you read had a question mark. It wasn't a statement, it
2 appears. Just so the record is accurate.

3 MR. HEEREN: Sorry, Your Honor. We didn't hear you.

4 THE COURT: I'm sorry. The part that was read by
5 the witness, "We have no information for his father until now"
6 is a question, not a statement. It has a question mark.

7 MR. HEEREN: Thank you.

8 Q Beginning at the next page: Yeah, Mr. Tarkin.

9 A Yeah. I will do the same way for the payment if I am in
10 China I will let you know this weekend they are very happy for
11 what you have done.

12 Q Okay. Great I'm glad makes you look good also.

13 A Ha, ha yeah I don't get paid like you MC I got business
14 rely on them it's kind of connection.

15 MR. HEEREN: You can put that down, Ms. McMahon.

16 One second, Your Honor.

17 THE COURT: All right.

18 MR. HEEREN: No further questions, Your Honor.

19 THE COURT: Thank you, Mr. Heeren.

20 Mr. Lustberg, cross-examination.

21 MR. LUSTBERG: Yes, Your Honor. Can we have a brief
22 sidebar just before.

23 THE COURT: Okay.

24 (Continued on the next page.)

25

1 (The following occurred at sidebar.)

2 MR. LUSTBERG: I'm sorry for the interruption. This
3 is more of a logistical question.

4 A number of records were admitted on that direct
5 examination regarding a deposit into Mr. McMahon's son's
6 account. Those are Exhibits 403 with letters. I can't
7 remember which --

8 MS. CONTI: G and J, I believe.

9 THE COURT: 403G and J?

10 MR. HEEREN: I think it is G and H, Your Honor. I
11 think there's one more as well.

12 MR. LUSTBERG: Okay. So the Government marked as
13 well and we -- governed by the stipulation was Government
14 Exhibit 403I and J, which shows the deposit into the account,
15 the account statement and then the checks that went out of the
16 account statement. I would like to examine the witness on it.
17 My only question is since the Government hasn't moved in the
18 admission of that, do I need to remark that as a defense
19 exhibit or can I continue to refer to it as a government
20 exhibit? And I don't want to do that without making sure it
21 was okay with everybody.

22 THE COURT: Does the Government have any objection
23 to it being introduced as a government exhibit?

24 MR. HEEREN: No, I don't. And no objection to
25 proceeding. I would note I don't anticipate the witness will

1 be able to do much more than read it, but obviously --

2 MR. LUSTBERG: That's what you've been doing.

3 THE COURT: I actually thought it was going to be a
4 scope issue because it, in theory, is beyond the scope of his
5 direct. But given that he really is a publishing witness, you
6 can use him, I guess, to get in his stipulated-to record.

7 Why don't you proceed in that fashion.

8 MR. LUSTBERG: Okay. Will do.

9 THE COURT: Thank you.

10 (Sidebar concluded.)

11 (Continued on the following page.)

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1 (In open court.)

2 MR. LUSTBERG: May I proceed, Your Honor?

3 THE COURT: You may.

4 MR. LUSTBERG: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 CROSS-EXAMINATION

7 BY MR. LUSTBERG:

8 Q Good morning, Mr. Tarkin.

9 A Good morning.

10 Q Just a few questions. First of all, if I could, I'm
11 going to call up a couple of exhibits that you have seen
12 before with the help of my colleague, Ms. Conti. So let me
13 start with one that you looked at, which is Government Exhibit
14 204, which is a stipulation and I want to focus on paragraph
15 29.

16 Did you review this stipulation, Mr. Tarkin, before
17 you testified?

18 A I do not recall reviewing this.

19 Q Okay. So, your aware, aren't you, a number of the
20 exhibits about which you testified were provided to the
21 Government by Mr. McMahon; correct?

22 MR. HEEREN: Objection, Your Honor.

23 THE COURT: Sustained.

24 Q You have no knowledge of where the exhibits that you were
25 testifying to came from?

1 A Some I do. Some of the chats I believe said provided by
2 McMahon.

3 Q Let me show you an exhibit that you testified to, Exhibit
4 4018.

5 MR. LUSTBERG: If you can enlarge that, Ms. Conti.

6 Q Do you remember testifying with regard to the China
7 Daily, China most-wanted poster?

8 A Yes.

9 Q Okay. You reviewed that?

10 A Yes.

11 Q Okay. And if we can go to -- are you aware how the
12 Government got that exhibit?

13 MR. HEEREN: Objection, Your Honor.

14 Q Okay. Do you know?

15 THE COURT: Do you know?

16 THE WITNESS: No.

17 MR. LUSTBERG: If you can go to the bottom of that
18 page.

19 Q Do you see where it says Defendant McMahon 000625? Do
20 you know what that indicates?

21 MR. HEEREN: Objection, Your Honor.

22 THE COURT: Sustained. Sustained.

23 Q I just want to make sure I understand what your role was.
24 You testified that you reviewed the exhibits about which you
25 have been reading from; correct?

1 A Yes.

2 Q Did you do any analysis at all of those exhibits?

3 A No.

4 Q Okay. And, so, for example, just in terms of the
5 questions I'm asking, you don't know where those exhibits came
6 from, how the Government got possession of them?

7 A No.

8 MR. LUSTBERG: Okay. If we can turn to Government
9 Exhibit 431K.

10 THE COURT: It hasn't been admitted yet. It hasn't
11 been admitted yet, correct?

12 MR. LUSTBERG: No, I believe 431K was a picture. I
13 could be wrong about this.

14 THE COURT: This is Government Exhibit 431K?

15 MR. LUSTBERG: I'll tell you what. I'll tell you
16 what. I will --

17 MR. HEEREN: Your Honor, it has been admitted.

18 MR. LUSTBERG: It has?

19 MR. HEEREN: Yes.

20 THE COURT: Okay, go ahead.

21 MR. LUSTBERG: There you go.

22 Q Do you recall testifying about this exhibit?

23 A Yes.

24 Q Okay. And you see it's an exhibit about somebody named
25 Sun Hui?

Tarkin - Cross - Lustberg

1 A Yes.

2 THE COURT: Spelling for the court reporter.

3 MR. LUSTBERG: S-U-N, H-U-I.

4 Q Is that the correct spelling, sir?

5 A Yes.

6 Q Okay.

7 THE COURT: S-U-N, first word, H-U-I second word.

8 MR. LUSTBERG: Thank you, Your Honor.

9 Q And did you review any e-mail communications between Mr.
10 McMahon and Mr. Sun Hui?

11 A I don't believe so.

12 Q Okay. Now, I'm just going to ask you a couple of
13 questions about some of the chats that you talked about.

14 MR. LUSTBERG: So if we could look at Government
15 Exhibit 805B, page 15.

16 Q And here's my question: In the middle of that page, on
17 the right-hand side, where it says Johnny Zhu and lists
18 johnny@g-mail.com, there's a quote that now I can't recall
19 whether you read it or Mr. Heeren read it, but it says Eric
20 said he had the info of J lifetime you actually gave it to
21 him.

22 And then below that it says, The company wants the
23 property list which be long J lifetime can you do that?

24 And then it says, Belong. And then on the other
25 side, where it says, McMahon Michael, it says, Yes correct. I

1 just wanted you to have it. It shows the relationship between
2 the house in Short Hills and the house in Warren New Jersey.

3 Did you examine the material that was attached to
4 understand the connection that it showed between the home in
5 Short Hills and the home in Warren, New Jersey?

6 A I believe I did.

7 Q And what was the document that you reviewed because we
8 didn't go through that, that showed the connection between the
9 home in -- the record that showed the connection between the
10 home in Short Hills and the home in Warren?

11 MR. HEEREN: Objection, Your Honor, relevance.

12 THE COURT: Overruled.

13 A I believe they were both in the name of the company J
14 lifetime.

15 Q Okay. Thank you.

16 Just a couple of questions about the bank
17 transactions about which you testified towards the end of your
18 testimony.

19 MR. LUSTBERG: If we could just pull up the same
20 Exhibit 805B on page 17, and this is in evidence.

21 Q Do you see where it says, TD Bank account number
22 4328775949, Michael McMahon?

23 Do you know who the Michael McMahon referenced in
24 that text is?

25 A I believe it's the defendant.

1 Q So you believe that's the defendant?

2 A It's the name of the defendant.

3 Q Uh-hum. Okay. And, so, that's the defendant who took
4 out the -- who had a bank account that has a student bank
5 account?

6 A I don't know. It's just the name.

7 Q Okay. Let me show you just a couple more exhibits and
8 ask whether you reviewed those.

9 MR. LUSTBERG: If we can look at TD Bank, I'm sorry,
10 Exhibit 403I. And for purposes of this one, just for the
11 witness and counsel.

12 Q Mr. Tarkin, did you -- was this one of the bank exhibits
13 that you examined Mr. Tarkin?

14 A I don't recall.

15 Q You don't recall examining this?

16 A No.

17 Q Did the Government share with you the exhibits regarding
18 the deposit about which you testified earlier?

19 A I don't recall that either.

20 Q Okay. So let me ask this question: Do you have any
21 awareness as you sit here and testify about that bank deposit
22 what happened to the money that went into that bank account?

23 A Just aside from the deposit slips?

24 Q Right.

25 A No, I don't.

1 Q So you don't know how it was used when it came out of
2 that bank account?

3 A No.

4 Q It's probably the wrong -- withdrawn.

5 MR. LUSTBERG: I have no further questions of this
6 witness.

7 THE COURT: Thank you very much, Mr. Lustberg.

8 Ms. Wong?

9 MS. WONG: No questions, Your Honor.

10 THE COURT: And Mr. Tung?

11 MR. TUNG: No questions.

12 THE COURT: Thank you very much. You are excused.

13 Oh, redirect. Any?

14 MR. HEEREN: No, Your Honor.

15 THE COURT: You are excused. Thank you very much.

16 (Witness excused.)

17 THE COURT: Government's next witness.

18 MS. CHEN: The Government calls Kuang Zebin.

19 THE COURT: Mr. Kuang, if you will come up here to
20 the witness box. Come up here where I am pointing.

21 Good morning, Ms. Wu.

22 THE INTERPRETER: Good morning, Judge.

23 THE COURT: If you will advise the witness to remain
24 standing for one moment so we can swear him in.

25 THE COURTROOM DEPUTY: Please raise your right hand.

1 (Witness sworn.)

2 THE COURTROOM DEPUTY: Thank you. Have a seat.

3 Please state and spell your name for the record.

4 THE WITNESS: My name is Zebin Kuang.

5 THE COURT: Let's pull the microphone close to him.

6 Speak into the microphone. Don't turn to look at the
7 interpreter, but remember speak into the microphone.

8 And I'll note for the record that I think the
9 translator is now translating from Cantonese to English,
10 correct?

11 THE INTERPRETER: Yes, Your Honor.

12 THE COURT: And vice versa. Go ahead.

13 THE WITNESS: My name is Zebin Kuang. Z-E-B-I-N
14 K-U-A-N-G.

15 THE COURT: You may inquire.

16 ZEBIN KUANG, called as a witness, having been first duly
17 sworn/affirmed, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. CHEN:

20 Q Mr. Kuang, do you go by any other names?

21 A Yes. Vincent.

22 Q And how old are you?

23 A I'm 25 years old.

24 Q Where do you live?

25 A Brooklyn.

1 Q And where were you born, Mr. Kuang?

2 A China.

3 Q At some point did you come to the United States?

4 A Yes.

5 Q And about how old were you when you came to the United
6 States?

7 A Approximately 12, 13.

8 Q Just to be clear, what is your native language?

9 A Cantonese.

10 Q And do you understand and speak some English?

11 A Yes.

12 Q But are you more comfortable relying on an interpreter
13 today to assist you with this proceeding?

14 A Yes.

15 Q How far did you go in school, Mr. Kuang?

16 A Three years in high school.

17 Q After you left school, what did you do?

18 A I became a hairstylist.

19 Q And do you currently work?

20 A Yes.

21 Q And what do you do?

22 A I work as a hairstylist.

23 Q Where do you do that?

24 A Manhattan.

25 Q How long have you been in your current job?

Kuang - direct - Chen

1 A Eight years.

2 Q Mr. Kuang, I direct your attention now to July of 2021.

3 Okay?

4 A All right.

5 Q At that time, were you arrested?

6 A Yes.

7 Q After your arrest, did you plead guilty to a crime?

8 A Yes.

9 Q What crime was that?

10 A Across the state to do stalking and also threatening.

11 Q Did you, in fact, commit that crime?

12 A Yes.

13 Q And we will talk about this in more detail later, but can
14 you, on a very high level, tell us what you did.

15 A I and my friend went to a home in New Jersey. We knock
16 at the door and we also left a note. So we walk around the
17 house, just take a look at it. Basically, that's it.

18 Q I think you said you did that with a friend. Who was
19 that friend?

20 A His name is Zheng Congying.

21 Q How did you know Zheng Congying?

22 A I met him in the first hair salon I work.

23 Q And back in 2018, what was your relationship with him?

24 A Just friends, but not much contact.

25 Q Okay. At that time, in 2018, how long had you known

1 Zheng Congying?

2 A Approximately one to two years.

3 Q Do you know if Zheng Congying is from China?

4 A Yes.

5 MS. CHEN: Just for the court reporter, the spelling
6 of Zheng Congying is Z-H-E-N-G; first name C-O-N-G-Y-I-N-G.

7 May I publish just to the witness and counsel what
8 has been premarked for identification as Government Exhibit 7
9 and 20.

10 (Exhibit published.)

11 Q Mr. Kuang, do you see this on your screen?

12 A Yes.

13 Q Do you recognize what this exhibit is?

14 A That's me.

15 MS. CHEN: Could we go to Exhibit 20, please.

16 Q And do you recognize this exhibit?

17 A Yes, I do.

18 Q What is this exhibit?

19 A Zheng Congying.

20 Q And is Exhibit 7 a true and accurate depiction of you,
21 Mr. Kuang, and is Exhibit 20 a true and accurate depiction of
22 Zheng Congying?

23 A Yes.

24 MS. CHEN: Your Honor, the Government moves to admit
25 Government Exhibit 7 and 20.

1 MR. TUNG: No objection.

2 MR. GOLDBERGER: No objection.

3 MR. LUSTBERG: No objection.

4 THE COURT: Admitted.

5 (Government Exhibits 7 and 20, were received in
6 evidence.)

7 MS. CHEN: May we publish first Exhibit 7.

8 (Exhibit published.)

9 Q And, again, Mr. Kuang, what does this show?

10 A A picture of me.

11 (Continued on next page.)

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1 (Continuing.)

2 MS. CHEN: And can we go to Exhibit 20.

3 BY MS. CHEN:

4 Q And, again, what does this exhibit show?

5 A Picture of Zheng Congying.

6 MS. CHEN: We can take this down, thank you.

7 Q Mr. Kuang, after you were arrested, did you cooperate
8 with the Government?

9 A Yes, I did.

10 Q And as part of your cooperation process, did you meet
11 with prosecutors and agents for the Government?

12 A Yes.

13 Q And did you eventually sign a cooperation agreement with
14 the Government?

15 A Yes.

16 MS. CHEN: May I show just to the witness and
17 Counsel what has been pre-marked as 3500-VK-129.

18 (Exhibit published to witness and Counsel.)

19 Q Mr. Kuang, do you recognize this document in front of
20 you?

21 A I do.

22 Q And what is it?

23 A It's my cooperation agreement.

24 MS. CHEN: Can we go to the last page, please?

25 Q And do you see several signatures on this page?

Kuang - Direct - Chen

1 A Yes, I see.

2 Q Do you see your signature?

3 A Yes.

4 Q Do you see the signature of a Government attorney, as
5 well?

6 A Yes.

7 Q Mr. Kuang, do you read English?

8 A I don't.

9 Q Before you signed this agreement, was this translated in
10 Chinese for you?

11 A Yes.

12 Q So you were able to understand the agreement?

13 A Yes.

14 MS. CHEN: We can take this down. Thank you.

15 Q As part of your cooperation agreement, did you plead
16 guilty to conspiring to engage in interstate stalking?

17 A Yes.

18 Q And have you been sentenced for that crime yet?

19 A No.

20 Q What is the maximum sentence you would face for that
21 crime?

22 A Five years.

23 Q What is the minimum sentence you could receive for that
24 crime?

25 A Zero.

1 Q And who decides what sentence you will receive?

2 A The judge.

3 Q Pursuant to your cooperation agreement, what are you
4 required to do?

5 A I'm required to and must to tell the truth. And keep the
6 agreement confidential.

7 Q Are you also required to testify, if asked to do so?

8 A Yes.

9 Q And are you also required to meet with the Government, if
10 the Government requests it?

11 A Yes.

12 Q If you do the things we just talked about pursuant to
13 your agreement, what will -- what will the Government do?

14 A They will -- they would write a letter to me that's
15 called 5K letter for me.

16 Q And what is a 5K letter?

17 A It's a letter written by the Government, telling the
18 judge what I have been -- what I have done in the case.

19 Q Okay.

20 And how does the 5K letter affect your sentencing,
21 if at all?

22 A I'm not quite sure.

23 Q What is the highest sentence the judge can give you, even
24 if the Government writes a 5K letter?

25 A Five years.

1 Q So even if you live up to your end of the agreement, you
2 could still get five years in prison for your crime that you
3 pled guilty to?

4 A Yes.

5 Q So could the judge sentence you to something between zero
6 and five years, even if the judge received a 5K letter?

7 A Yes.

8 Q Has anyone promised you a lower sentence?

9 A No.

10 Q Sitting here, do you know what your sentence will be?

11 A I don't.

12 Q Even if -- does your sentence depend on whether the
13 defendants in this case are convicted?

14 A No.

15 Q What happens if you lie here today?

16 A The Government can use my lie or elect the right to
17 charge me.

18 Q If you lie here today, is your cooperation agreement
19 void?

20 A Yes.

21 Q And if you lied and the defendants got convicted, would
22 you still get a 5K letter?

23 A No, I cannot.

24 Q If you lie here today, can you take back your guilty
25 plea?

Kuang - Direct - Chen

1 A No, I cannot.

2 Q Will the 5K letter guarantee that you will not go to
3 prison?

4 A No.

5 Q I am going to direct your attention now to September 4th,
6 2018.

7 Did you receive a call from anyone that morning?

8 A Yes.

9 Q From who?

10 A Chen Chaohong.

11 Q Who is Chen Chaohong?

12 THE COURT: Do you want to give a spelling to the
13 court reporter?

14 MS. CHEN: Yes, sorry. Chen, C-H-E-N, Chaohong,
15 C-H-A-O-H-O-N-G.

16 A He's another friend of mine.

17 Q As of September 2018, how long had you known Chen
18 Chaohong?

19 A Approximately one to two years.

20 Q And what was your relationship back then?

21 A Very good.

22 Q Did you have any nicknames you called each other?

23 THE INTERPRETER: Interpreter's clarification, so I
24 asked the witness whether he called the person a brother, so
25 he acknowledges.

Kuang - Direct - Chen

1 THE COURT: The nickname was brother, gorgor, right?

2 THE WITNESS: Yes.

3 Q What is your relationship with Chen Chaohong now?

4 A No relationship.

5 Q Back on September 4, 2018, what did you and Chen Chaohong
6 discuss in that phone conversation?

7 A He called me and asked me to accompany Zheng Congying to
8 a location. He also asked me to bring along three pieces --
9 three pieces of paper. Some words should be written on those
10 paper. It would be written on those pieces of paper that if
11 you are willing to go back to China to serve a ten years
12 prison -- prison sentence, your wife and your children will be
13 okay. That's the end of this matter.

14 Q I think you said that during that conversation, Chen
15 Chaohong asked you to accompany Zheng Congying; is that right?

16 A Yes.

17 Q Do you know whether Zheng Congying and Chen Chaohong had
18 spoken already before you received that call?

19 A Chen Chaohong did mention that they have contacted each
20 other.

21 Q Do you have an understanding as to why Zheng Congying did
22 not want to go alone?

23 MR. GOLDBERGER: Objection. That's not -- he didn't
24 say that.

25 THE COURT: Overruled. Let me hear what the answer

Kuang - Direct - Chen

1 is.

2 Can you answer that question?

3 THE INTERPRETER: Your Honor, first let me complete
4 the interpretation first.

5 THE COURT: You know what, let me reverse myself.

6 Sustained.

7 Why don't you establish whether he knew that or not
8 or believed that.

9 MS. CHEN: Understood, Your Honor. I'll ask a
10 different question.

11 Q Mr. Kuang, do you have an understanding as to why Zheng
12 Congying wanted you to accompany him?

13 A Yeah. Like mentally, he was scared to go by himself.

14 Q Why would he be scared to go by himself?

15 A Because we need to look for people. And also gave
16 instructions to those people.

17 Q In connection with this task, did Chen Chaohong show you
18 a photo of anything?

19 A Yes.

20 Q What was that photo?

21 A He sent me a business card.

22 Q What did that business card say or show?

23 A On that business card, there's a name. He belong to a
24 community person. He's a community person.

25 Q What do you mean by community person?

1 A Like underworld society.

2 Q Did you learn anything about the individual you were
3 supposed to see in New Jersey?

4 A Not at the time.

5 Q Did you know if that person was a man or a woman?

6 A I know it was -- it will be a man.

7 Q It was a man.

8 Did you know the specific address in New Jersey you
9 and Zheng Congying were supposed to go to?

10 A Zheng Congying already obtain it.

11 Q So just to be clear, you did not have the address; is
12 that right?

13 A No.

14 Q What other specific instructions, if any, did you learn
15 from Chen Chaohong on that phone call?

16 A He asked us to go there to find the person, if we see the
17 person, and then handed the note over to him.

18 Q I believe you mentioned before three notes; is that
19 right?

20 A Yes, I did.

21 Q Who wrote those notes?

22 A I did.

23 Q Where did you write the notes?

24 A At home.

25 Q Did anybody tell you what to write on the notes?

Kuang - Direct - Chen

1 A Yes.

2 Q Who was that?

3 A Chen Chaohong.

4 Q On this call with Chen Chaohong, did you discuss whether
5 you would be paid for this?

6 A At the beginning of the conversation, he did say that we
7 might get some type of a compensation.

8 Q What about if Zheng would be paid for this?

9 A I'm not sure.

10 Q And I know we have been talking about a call.

11 Was it a phone call on your phone, or did you use a
12 different application?

13 A WeChat.

14 Q Did you use both WeChat and your phone, regular phone, to
15 communicate with Chen Chaohong and others?

16 A Yes.

17 Q At the time you received this phone call, where were you?

18 A At home.

19 Q Where was your home at the time?

20 A On 14th Avenue and 76th Street.

21 Q In what borough is that in?

22 A In Brooklyn.

23 Q Did Chen Chaohong tell you to speak with anyone about
24 going to New Jersey?

25 MR. GOLDBERGER: Objection to leading.

1 THE COURT: Overruled.

2 THE INTERPRETER: Witness needed repeated -- the
3 question repeated.

4 MS. CHEN: Yes.

5 A No, I could not.

6 Q Did you speak with anyone after you got off the phone
7 with Chen Chaohong?

8 A Yes. With Zheng Congying.

9 Q How did you speak with him?

10 A I look for him in WeChat. I ask him what time he will
11 come to pick me up.

12 Q Just to be clear, on WeChat, were you on a phone call, or
13 were you using text communication?

14 A I think it's on the telephone.

15 Q So on this call with Zheng Congying, what did you guys
16 talk about?

17 A I told him that I would bring papers and I said I don't
18 have the tape -- tape machine, I don't have it, and he said he
19 would bring -- bring it.

20 Q And why did he need a tape machine, or why did you both
21 need a tape?

22 A Chen Chaohong instructed us to tape it on his door.

23 Q And did you on that call explain to Zheng Congying what
24 you guys were to do?

25 A No.

1 Q Why not?

2 A He already knew.

3 THE COURT: Ms. Chen, this may be me, but you may
4 want to clarify the meaning of the term "tape machine,"
5 because I thought you meant like a recording device.

6 MS. CHEN: Understood.

7 Q When you referred to a tape machine, Mr. Kuang, did you
8 refer to --

9 THE COURT: What did you mean?

10 Q What did you mean, that's fine.

11 A Sticky tape that would put something on something.

12 THE COURT: Do you mean like a tape dispenser?

13 THE WITNESS: Yes.

14 THE COURT: Go ahead, Ms. Chen.

15 MS. CHEN: Thank you.

16 Q Did you speak with Mr. Zheng about seeing him in person
17 that day?

18 A Yes.

19 Q What did you guys talk about, about meeting up?

20 A We talk about what we do when we get there.

21 Q Did Mr. Zheng -- did you see Mr. Zheng in person that
22 day?

23 A Yes.

24 Q About how much time had passed since the call since when
25 you saw him in person?

Kuang - Direct - Chen

1 A About half an hour to one hour.

2 Q When you met him in person, where did you meet?

3 A In the front of my house.

4 Q When you saw Mr. Zheng for the first time, was he in a
5 car?

6 A Yes.

7 Q Will you describe that car?

8 A It's a greyish silver Lexus.

9 Q At that time did you have a driver's license?

10 A No, not yet.

11 Q And did you have a car?

12 A No.

13 Q So were you able to drive to New Jersey?

14 A No, I cannot -- I could not.

15 Q After you met Zheng that day, did you get into his car?

16 A Yes.

17 Q When you got into his car, did you and Zheng discuss the
18 papers you had written?

19 MR. GOLDBERGER: Your Honor, I am going to object as
20 to leading.

21 THE COURT: Sustained.

22 Q Mr. Kuang, when you got in the car, did you have anything
23 with you?

24 A Yes. The three notes.

25 Q And when you got into the car, what, if anything, did you

Kuang - Direct - Chen

1 do with those notes?

2 A I kind of show him.

3 Q And how did Zheng react when you showed him the notes?

4 A He just look at them briefly.

5 Q Was he surprised what was written on the notes?

6 A It has been so long, I don't remember clearly.

7 Q Okay, okay.

8 After you showed Zheng the notes, what did you or he
9 do with them in the car?

10 A We started off.

11 Q When you got into the car, did you see any tape in the
12 car?

13 A No.

14 Q Did you know where the tape was?

15 A In the trunk.

16 Q How did you know that?

17 A I asked him.

18 Q When you say you started off, did you know where you
19 were -- the ultimate destination for your trip?

20 A I only know that was in New Jersey.

21 Q Did you have directions to the location in New Jersey?

22 A No.

23 Q How did you and Zheng know how to get to New Jersey?

24 A I think Chen Chaohong already sent that to Zheng
25 Congying.

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1 Q How long did it take -- well, first of all, did you
2 ultimately arrive at an address in New Jersey?

3 A Yes.

4 Q And about how long did it take to get to that location?

5 A An hour.

6 Q Did you and Zheng talk while you were in the car for
7 about an hour?

8 A We did not talk for an hour.

9 Q Did you talk at all during the car ride?

10 A Well, we talk about just casual talks, like what's up
11 recently and things like that.

12 Q Did you talk about what you were supposed to do that day?

13 A Yeah, a little bit.

14 Q Did you talk about what was written on the papers that
15 you had with you?

16 A Yes, I think we did talk about it, but it's been too
17 long, I don't remember specifics.

18 THE COURT: Ms. Chen, I don't know if this is a good
19 time to break, but it is about time for our morning break.

20 MS. CHEN: Sure. We can take this time to break.

21 THE COURT: Ladies and gentlemen, be ready to go at
22 quarter of 12. Don't talk about the case, keep an open mind,
23 and don't do any research.

24 THE COURTROOM DEPUTY: All rise.

25 (Jury exits courtroom.)

1 THE COURT: Have a seat everyone.

2 I'm assuming we don't have anything to discuss and
3 you folks are free to go for the next 15 minutes.

4 (Recess taken.)

5 (Jury enters.)

6 THE COURT: Please be seated, everyone.

7 Welcome back, ladies and gentlemen. I hope you had
8 a good break. Perhaps you have been exchanging orange smog
9 stories, about how bad it is in your neighborhood or what
10 degree of orange you had, but we are going to continue now
11 with the examination of this witness.

12 MS. CHEN: Thank you, Your Honor.

13 BY MS. CHEN:

14 Q Mr. Kuang, I want to go back to your testimony that Zheng
15 and Chen Chaohong had a call before you were contacted by Chen
16 Chaohong.

17 THE COURT: Do you need her to translate first?

18 MS. CHEN: Sure.

19 THE INTERPRETER: Okay.

20 Q Just to be clear, were you on that phone call?

21 A No. No.

22 Q Other than what was relayed to you, do you know what was
23 discussed on that phone call?

24 A I don't know.

25 Q I want to go back now to the car ride, okay.

Kuang - Direct - Chen

1 I believe -- well, what did the notes that you wrote
2 say again?

3 A If you are willing to go back to China and serve ten
4 years in jail, your wife and your children will be fine and
5 this will be the end of it.

6 Q Did you or Zheng know whether the man you were supposed
7 to see in New Jersey, in fact, had a wife or children?

8 A I could roughly tell from that note.

9 Q Did you learn anything other than from that note as to
10 whether that person had a wife or children?

11 A Yes.

12 Q And what did you know?

13 A That's about what I knew.

14 Q I'm sorry, I am not sure I understand.

15 A So I learned that it seemed like he had a daughter.

16 Q When you say it seemed like he had a daughter, why do you
17 say that?

18 A It was because Chen Chaohong told me about this.

19 Q Are you aware whether Zheng knew about that?

20 A I am not sure.

21 Q Did you and Zheng speak about any of the words written in
22 the note?

23 A Before I went there, that was not discussed.

24 Q Around September of 2018, were you personally aware
25 whether the Chinese Government had made any efforts to get

1 Chinese officials back to China?

2 A Yes. I read some reports.

3 Q Where did you read those reports?

4 A The Chinese version of TikTok.

5 Q Did you read those reports anywhere else?

6 A Sometimes in WeChat, someone would push the news in the
7 public accounts.

8 Q Can you explain how that works?

9 A Some of the news platforms would post them.

10 Q So it's like somewhat like Twitter, where there is a news
11 feed?

12 A Yes.

13 Q Do you know if Zheng used WeChat?

14 A Yes.

15 Q Do you know if Zheng used the Chinese TikTok you were
16 just discussing?

17 A Yes.

18 Q How do you know that?

19 A At the time TikTok was very popular, every Chinese person
20 would have it.

21 Q At some point that day on September 4, 2018, did you
22 arrive at a home in New Jersey?

23 A Yes.

24 Q Around what time of day was that; do you remember?

25 A It was around 11 to noon.

1 Q And were you able to locate the particular home you were
2 supposed to go to immediately?

3 A No.

4 Q What happened when you got to the neighborhood?

5 A We circled around to figure out which one it was.

6 Q Did you ultimately find the home you were supposed to go
7 to?

8 A Yes.

9 Q And where, if at all -- where did you park?

10 A It was parked across the street in front of the home.

11 Q Can you describe the home that you were supposed to go
12 to?

13 A It was a big house. It had a front yard. And there was
14 a staircase that could lead to the front door. And there was
15 a backyard.

16 MS. CHEN: May I publish for the witness -- sorry,
17 may I publish for everyone what is in evidence as Government
18 Exhibit 119, specifically page 3.

19 THE COURT: Okay.

20 (Exhibit published.)

21 Q Mr. Kuang, do you recognize this?

22 A Yes, I do.

23 Q What is this?

24 A That is the pathway at the front door.

25 Q When you arrived at the home, did you get out of the car?

1 A Yes.

2 Q When you got out of the car, what did you have with you
3 on your person?

4 A I had my cell phone and some paper.

5 Q Did Zheng get out of the car as well when you arrived at
6 the home?

7 A Yes.

8 Q What did Zheng have with him when he got out of the car?

9 A He had a tape dispenser.

10 Q When you both got out of the car, where did you both walk
11 to?

12 A We walked towards the front door.

13 Q So on this picture, can you show us where you walked?

14 You can -- you can touch the screen.

15 MS. CHEN: And just let the record reflect that the
16 witness has pointed an arrow towards the front door of the
17 home.

18 Q When you got to the residence, did you look for anything?

19 A I looked around the environment.

20 Q Was there anything in particular you were looking for?

21 A We were looking around to see if there were any cameras.

22 Q Why?

23 A It was because I was already on the phone talking to Chen
24 Chaohong.

25 Q Can you explain what you mean by that, why being on the

Kuang - Direct - Chen

1 phone with Chen Chaohong lead you to look for cameras?

2 A It was because he asked us to call him once we arrived
3 and we did and he also asked us to look around to see if
4 there's any camera at the front door, like normally would.

5 Q And what is your understanding as to why you needed to
6 look for cameras?

7 A It was not to be seen by others.

8 MS. CHEN: Can we go to page 4 of this exhibit,
9 please?

10 Q Do you recognize this, Mr. Kuang?

11 A That was his house.

12 Q And can you show again on this picture where you walked
13 to get to the front of the home?

14 MS. CHEN: Okay, thank you.

15 And let the record reflect the witness has put two
16 arrows on this stone path up to the front door.

17 Q Can you describe the front door of this home?

18 A There were a few trees there. And in front of the home,
19 there were a few packages.

20 Q Do you remember about how many packages were there?

21 A About two or three.

22 Q Do you remember what the door looked like? What color it
23 was?

24 A Red.

25 Q Do you know if there was anything on the door when you

1 got there originally?

2 A There was a slip from Fed Ex regarding undelivered
3 package posted there.

4 Q When you and Zheng got to the front door, what, if
5 anything, did Zheng do?

6 A He knocked on the door.

7 Q Did he do anything else?

8 A He knocked on the door. He rang the doorbell. And he
9 posted the slip.

10 Q Did you do anything when you got to the front door?

11 A When I got there, I knocked on the door and I passed on
12 the paper for him to post it and I was also videotaping.

13 Q Why were you videotaping?

14 A It was because Chen Chaohong asked me to record it.

15 Q And what was your understanding as to who was on the
16 other side -- I'm sorry, when you were video recording, were
17 you just making a video on your phone?

18 A Yes.

19 Q At any point while you were at this home, were you on the
20 phone with Chen Chaohong?

21 (Continued on the following page.)

22

23

24

25

KUANG - DIRECT - MS. CHEN

1 DIRECT EXAMINATION (Continued)

2 BY MS. CHEN:

3 Q At any point while you were at this home were you on the
4 phone with Chen Chaohong?

5 A Yes.

6 Q At any point were you on like a video call with him?

7 A Yes.

8 Q On those phone calls and video calls, who did you
9 understand was on the other line?

10 A Chen Chaohong.

11 Q Did you hear anybody else, other than Chen Chaohong?

12 A Yes.

13 Q Who did you hear?

14 THE INTERPRETER: The interpreter would like to
15 clarify the name with the witness.

16 A Yongshun Ma. The spelling is Y-O-N-G-S-H-U-N. Last name
17 is M-A.

18 Q Last name is M-A?

19 A Yes.

20 Q Who is Ma Yongshun?

21 A He's a mutual friend between me and Zheng Congying.

22 Q What was your relationship with Ma Yongshun?

23 A We are friends, colleagues.

24 Q How did you meet Ma Yongshun?

25 A We used to work together at a hair salon.

KUANG - DIRECT - MS. CHEN

1 Q What was Ma Yongshun's relationship with Zheng?

2 A They call each other cousins, I think.

3 Q Other than Chen Chaohong and Ma Yongshun, were there any
4 other voices you heard when you were on the phone or video
5 chat at that home?

6 A I also heard another voice coming from a middle-aged man.

7 Q Did you recognize that voice?

8 A I do not.

9 Q Could you hear voices on the other side of the phone or
10 video call talking to each other?

11 A I heard them talking, but I did not see their faces.

12 Q What did you hear them talking about?

13 A I heard that they were saying something like it seems
14 like no one had been back to this home for a long time.

15 Q Just to be clear, do you remember which voice was saying
16 that?

17 A Chen Chaohong.

18 Q Did the unidentified voice say anything back that you
19 could hear?

20 A From that middle aged man?

21 Q Yes, that's right.

22 A It was probably about he hadn't been home for a long time
23 but I'm not very sure, it was a long time ago.

24 Q So I'll bring you back now to when you and Zheng got to
25 the front door, okay?

1 I believe you testified that Zheng posted notes on
2 the door; is that right?

3 A Yes.

4 Q How many notes did Zheng post on the door?

5 A Three.

6 Q Can you explain how they were positioned on the door?

7 A They were in the top, middle and bottom parts of the
8 door.

9 Q And just to be clear, how were they attached to the door?

10 A They were taped to the door with the -- those tapes.

11 Q After Zheng taped the notes on the door, did you and
12 Zheng go anywhere else on the property?

13 A Yes, we walked to the backyard.

14 Q Can you describe the backyard a little bit?

15 A That backyard were made with wooden planks, and there was
16 a staircase leading to the backyard.

17 Q To be clear, does the "backyard," do you mean a deck?

18 A Yes.

19 Q What did you and Zheng do when you were -- you got to the
20 deck?

21 A We were standing in the backyard, so we looked through
22 the glass mirror to see if there was anybody inside.

23 Q By "mirror," do you mean window?

24 A Yes.

25 Q What was -- why did you do that?

1 A It was because at the time I was talking to Chen Chaohong
2 on the phone, he asked us to go inside and take a look.

3 Q When you were speaking with Chen Chaohong on the phone,
4 could Zheng hear you?

5 A Yes, he could.

6 Q When you looked inside the glass windows, what did you
7 observe?

8 A There was a lot of dust inside, it seems like nobody had
9 been home.

10 Q Okay. Did you tell anybody that?

11 A Yes.

12 Q At some point did you leave the deck?

13 A No, I did not leave.

14 Q You did not leave the deck at all that day?

15 THE WITNESS: (In English) I'm sorry.

16 A Sorry, I misheard your question.

17 Q That's okay.

18 A I left afterwards.

19 Q Was Zheng with you when you left?

20 A Yes.

21 Q Where did you and Zheng go?

22 A We went back to the front door.

23 Q Why did you go back to the front door?

24 A Chen Chaohong asked us to tear down two notes and just
25 leave one note there.

KUANG - DIRECT - MS. CHEN

1 Q Do you have an understanding as to why you were to tear
2 down two notes but leave one note?

3 A Because when the three notes were posted there, there
4 were just too many, and it would be too obvious and the
5 neighbors may find out.

6 Q Just to be clear, who raised the idea of going back and
7 tearing down those two notes?

8 A Chen Chaohong.

9 Q And who between you and Zheng physically took the notes
10 down?

11 A Zheng Congying.

12 Q And just to be clear, how many notes did he take down?

13 A Two.

14 Q Did you see what Zheng did with those two notes he took
15 down?

16 A He went down from the staircase and threw those papers in
17 the bushes. Underneath the staircase.

18 Q Okay. So at this point in time, how many notes were left
19 on the door?

20 A One.

21 Q Up until this point on September 4th, 2018, did you
22 observe Zheng looking confused?

23 A No.

24 Q Did you observe Zheng appearing nervous?

25 A No.

KUANG - DIRECT - MS. CHEN

1 Q After the two notes were taken down, what did you and
2 Zheng do next?

3 A I continued to make a video.

4 Q Okay. What happened after you continued to make the
5 video?

6 A Then we got in the car and left.

7 Q Do you remember anything happening after you got in the
8 car and left, I assume, the property?

9 A Then we received a phone call.

10 Q Who was that phone call from?

11 A I cannot remember exactly whether it was from Ma Yongshun
12 or Chen Chaohong.

13 Q What did either Chen Chaohong or Ma Yongshun tell you on
14 that call?

15 A He asked us to go back to see if anybody has moved that
16 paper.

17 Q And do you have an understanding as to why you were asked
18 to do that?

19 A It was because they were trying to figure out if anybody
20 was inside the home but deliberately not coming out. So after
21 we left, he wanted to see if someone has moved that note.

22 Q Other than seeing if someone had moved the note, were you
23 or Zheng supposed to do anything else when you got -- when you
24 returned to the home?

25 A Yes.

KUANG - DIRECT - MS. CHEN

1 Q And what was that?

2 A Zheng Congying put another piece of tape on the front
3 door. Then I was behind him making video.

4 Q And what specifically were you videoing?

5 A I was videotaping the FedEx slip, and also the few
6 packages and the note we left.

7 Q And what was your understanding as to why you were asked
8 to do that?

9 A It was because Chen Chaohong wanted to send it to other
10 people.

11 Q Did you have any understanding as to who had left the
12 FedEx, or packages -- FedEx slip or packages, sorry?

13 A I heard that from Chen Chaohong. He mentioned it to me.

14 Q What did he mention to you?

15 A He told me that maybe --

16 THE INTERPRETER: The interpreter would like to
17 repeat the answer.

18 A He told me that maybe previously there were other people
19 who had been there and left it.

20 Q Did you in fact return to the property that day? I
21 should say -- withdrawn.

22 After that phone call, did you return to the
23 property?

24 A After that I left, I did not go back.

25 Q So I just want to be clear.

KUANG - DIRECT - MS. CHEN

1 I think you left after Mr. -- or after Zheng took
2 down two notes; is that right?

3 A Yes.

4 Q After you left that time, did you return to the home?

5 A Yes.

6 Q And when you returned to the home again, what did you do?

7 THE INTERPRETER: The interpreter would like to
8 clarify a term with the witness.

9 A I put another piece of tape on the note, and then I
10 videotaped a complete video and sent it to Chen Chaohong.

11 Q And just to be clear, who put the piece of tape on -- the
12 additional piece of tape on the note?

13 A Zheng Congying.

14 Q After that piece of tape was added and you took the
15 video, what happened next?

16 A We started driving and left the premise.

17 Q Where did you go?

18 A Back home.

19 Q Did you stop anywhere between the home and your home?

20 A Yes.

21 Q And where was that?

22 A The first stop was going to a gas station to buy some
23 cigarettes. And for the second stop, we went to a noodle shop
24 for lunch.

25 Q After that day, September 4th, 2018, have you ever been

KUANG - DIRECT - MS. CHEN

1 back to that residence?

2 A No.

3 Q After September 4th, 2018, did you talk to law
4 enforcement agents and the government?

5 A What do you mean by "after"?

6 Q At any point after September 2018.

7 A Yes.

8 Q Do you remember about how many times, you can just say
9 approximately?

10 A Four times for questioning.

11 Q Were you always truthful when you spoke with law
12 enforcement or the government?

13 A No.

14 Q And who did you say in those meetings -- in some of those
15 meetings wrote the notes?

16 THE INTERPRETER: Counsel, can I have the question
17 again?

18 Q Sure.

19 In those meetings, in some of those meetings, who
20 did you say wrote the notes?

21 A I said it was written by Zheng Congying.

22 Q Was that true?

23 A No.

24 Q Did you tell law enforcement or the government the reason
25 for your trip to New Jersey?

1 A Yes.

2 Q What did you say at some of those meetings?

3 A At the time I told them that we were going to a spa and
4 looking for some friends.

5 Q And was that true?

6 A No.

7 Q And why did you not tell the truth on those occasions?

8 A I was scared.

9 Q Do you understand that what you've testified to today is
10 worse than what you previously told law enforcement?

11 A No.

12 Q Okay. Is what you've testified today the truth of what
13 happened on September 4th, 2018?

14 A Yes.

15 MS. CHEN: May I publish, just to the witness and
16 counsel, what has been premarked for identification as 709A.

17 If we could scroll through --

18 THE COURT: You should look on the screen in front
19 of you.

20 Q If we could scroll through, it's a couple of pages.

21 (Exhibit published.)

22 A I recognize it.

23 Q Now that we finished scrolling, do you recognize all of
24 these pages?

25 A Yes, I recognize them.

KUANG - DIRECT - MS. CHEN

1 Q And what are these?

2 A That was the pathway when I went in. That was the cement
3 path.

4 Q I'm sorry, I didn't hear the answer.

5 A That was the path I went in, the cement path.

6 Q Do you see individuals on this exhibit?

7 A Yes.

8 Q Who are those individuals?

9 A The one on the left was me, the one on the right was
10 Zheng Congying.

11 Q And does this exhibit contain true and accurate
12 depictions of you and Zheng Congying on September 4th, 2018?

13 A Yes.

14 MS. CHEN: Your Honor, the government moves into
15 evidence Exhibit 709A.

16 MR. GOLDBERGER: No objection.

17 MR. LUSTBERG: No objection.

18 MR. TUNG: No objection.

19 THE COURT: Admitted. You may publish.

20 (Government Exhibit 709A, was received in evidence.)

21 (Exhibit published.)

22 Q And just to orient the jury, can you read the numbers
23 that appear in the top-left corner of this exhibit?

24 A September 4th, 2018, 12:58 and 37 seconds.

25 MS. CHEN: We can zoom out. Thank you.

KUANG - DIRECT - MS. CHEN

1 Q And going back to this photo, can you explain again who
2 the individuals depicted are?

3 A It was me and Zheng Congying.

4 Q And did you have blond hair back then?

5 A Yes.

6 MS. CHEN: Can we zoom in on the two individuals.

7 Q Do you see something in Zheng Congying's hand?

8 A Yes.

9 Q What is that?

10 A That was the device for the tape.

11 Q And do you see something in your hand?

12 A Yes.

13 Q And what is that?

14 A My cell phone.

15 Q What were you doing in this picture?

16 A I was talking on the phone with Chen Chaohong, and I was
17 making a videotape for him.

18 Q And just to be clear, who is closer to the front door in
19 this picture, you or Zheng?

20 A Zheng Congying.

21 MS. CHEN: If we could zoom out. If we could zoom
22 in on the bottom left corner.

23 Q What do you see in this portion of the photo?

24 A It was a car.

25 Q And specifically what part of the car is that?

1 A The rear end of the car.

2 Q So in what direction, just left or right, is the front of
3 the car facing?

4 A Left.

5 MS. CHEN: If we could go to page 2. And if we
6 could blow up the upper left-hand corner again.

7 Q Does this list here the same date, September 4th, 2018?

8 A Yes.

9 Q And what is the time you see here?

10 A 12:58:41 seconds.

11 Q Is this photo taken after the photo we were just looking
12 at?

13 A Yes.

14 MS. CHEN: Okay, if we could zoom out.

15 Q And again, who is depicted in this photo?

16 A Me.

17 Q And where are you headed in this picture?

18 A I was walking towards the front door.

19 MS. CHEN: Go to the next page.

20 And again, if we could blow up the upper left-hand
21 corner.

22 Q And what is the timestamp here?

23 A One --

24 Q And, again, is this photo taken after the one we were
25 just looking at?

KUANG - DIRECT - MS. CHEN

1 THE INTERPRETER: The previous answer was 106
2 seconds.

3 A Yes.

4 MS. CHEN: If we could zoom out.

5 Q Who is pictured in this photo?

6 A Zheng Congying.

7 Q Are you in this photo?

8 A No. No.

9 Q And what, if anything, is in Zheng Congying's hand?

10 A The tape dispenser.

11 MS. CHEN: Your Honor, if I could publish, just for
12 the witness and counsel, from the ELMO?

13 THE COURT: All right.

14 Q Can you see that Mr. Kuang?

15 A Yes, I see it.

16 Q And do you recognize this USB drive?

17 A I recognize it.

18 Q And do you see something written on the USB drive?

19 A Yes.

20 Q What is that?

21 A My signature and a date.

22 MS. CHEN: I'm sorry, I should have said, your
23 Honor, just for the record, this is marked as Government
24 Exhibits 709B through L.

25 Q Mr. Kuang, have you reviewed what's on this USB drive?

KUANG - DIRECT - MS. CHEN

1 A Yes.

2 Q And is what's on this USB drive Government's Exhibit 709B
3 through L?

4 A Yes.

5 Q Are Government's Exhibit 709B through L true and accurate
6 video recordings of you and Zheng on September 4th, 2018?

7 A Yes.

8 MS. CHEN: Your Honor, the government moves into
9 evidence Exhibit 709B through L.

10 MR. GOLDBERGER: No objection.

11 MR. LUSTBERG: No objection.

12 MR. TUNG: No objection.

13 THE COURT: Admitted. You may publish.

14 (Government Exhibits 709B through L, were received
15 in evidence.)

16 (Exhibit published.)

17 MS. CHEN: And if we could publish Exhibit 709B
18 first.

19 Q Mr. Kuang, can you read in the upper left-hand corner
20 again the timestamp here?

21 A 1 o'clock and eight seconds.

22 MS. CHEN: If we could play this clip, please.

23 (Video recording played; video recording stopped.)

24 Q Who is depicted in this video?

25 A Zheng Congying.

KUANG - DIRECT - MS. CHEN

1 Q What is he holding in his hand?

2 A The tape dispenser.

3 Q And what did he do on the video?

4 A He was knocking on the door.

5 Q Was that the only time that Mr. Zheng or you knocked on
6 the door that day?

7 A Yes.

8 Q I'm sorry. Did you knock on the door that day,
9 Mr. Kuang?

10 A It seems like that, yes, I did.

11 Q I'm sorry, I can't hear you.

12 A It seems like that, yes, I did.

13 MS. CHEN: Can we go to 709C, please.

14 Q And again, do you see a time in the upper left-hand
15 corner?

16 A Yes.

17 Q What time is that?

18 A 1 o'clock and 31 seconds.

19 MS. CHEN: If we could play this clip, please.

20 (Video recording played; video recording stopped.)

21 Q And can you describe to the jury what happened in this
22 video?

23 A I was holding the cell phone to make a video.

24 MS. CHEN: We can actually play it again from the
25 beginning. I'm going to pause in the middle.

KUANG - DIRECT - MS. CHEN

1 (Video recording played; video recording paused.)

2 MS. CHEN: Here. A little bit farther, sorry.

3 There.

4 If we could zoom into the upper-left portion of this
5 video. Ms. McMahon, is going to do some magic.

6 Q Can you see something in your hand, Mr. Kuang, in this
7 video?

8 A Yes, I see that.

9 Q What's in your hand?

10 A Cell phone.

11 Q Do you see something on your cell phone screen?

12 A Yes.

13 Q What is that?

14 A Three pieces of paper.

15 Q And how are they depicted, as you can see, on your phone?

16 A They were placed in the top, middle and bottom.

17 MS. CHEN: Okay. Can we play 709D, please.

18 (Video recording played; video recording stopped.)

19 MS. CHEN: Can we go back now to 709A, page 4.

20 If we could look at the upper left-hand corner
21 again.

22 Q Do you see a time there?

23 A Yes, I see that.

24 Q And what is that time?

25 A 103 and 51 seconds.

KUANG - DIRECT - MS. CHEN

1 MS. CHEN: If we could zoom out.

2 Can we zoom in on the individuals pictured somewhat
3 in the middle of the photo.

4 Q Again, who are these two people?

5 A The one --

6 Q Where were you -- I'm sorry.

7 A The one at the top was Zheng Congying and the bottom one
8 was me.

9 Q And do you have anything in your hand?

10 A Yes.

11 Q What is that?

12 A Cell phone.

13 Q What were you doing in this photo?

14 A At the time I was talking to Chen Chaohong over the
15 phone.

16 Q And what was Zheng doing in this photo?

17 A He was looking inside, looking into the home.

18 Q Is Zheng in front of you, or are you in front of Zheng?

19 A Zheng Congying was in the front.

20 MS. CHEN: Can we now publish 709G.

21 (Exhibit published.)

22 Q Again, Mr. Kuang, do you see a time in the upper left?

23 A Yes.

24 Q What time is that?

25 A 103 and 53 seconds.

KUANG - DIRECT - MS. CHEN

1 MS. CHEN: We can play this clip.

2 (Video recording played; video recording stopped.)

3 Q Did you hear something on that clip, Mr. Kuang?

4 A Yes.

5 Q Could you understand what that audio was?

6 A Zheng Congying said he has not been home for a long time.

7 MS. CHEN: May I publish what is in evidence as
8 Government's Exhibit 108.

9 Go to page 2, please.

10 (Exhibit published.)

11 Q Do you recognize the people in this photo?

12 A Yes, I see that.

13 Q And, again, who are these people?

14 A The one on the left was me, and the one on the right was
15 Zheng Congying.

16 Q And do you understand from where this photo is taken?

17 A From inside the home.

18 MS. CHEN: Okay. Can we go to 709A please, page 5.

19 Q And what time was this photo taken, Mr. Kuang?

20 A 104, 51 seconds.

21 MS. CHEN: If we could zoom out.

22 Q And one more time. What is in your hand and what is in
23 Zheng's hand?

24 A I was holding the cell phone, and he was holding a tape
25 dispenser.

KUANG - DIRECT - MS. CHEN

1 Q And in what direction are you and Zheng walking in this
2 photo?

3 A Towards the front door.

4 MS. CHEN: Can we go to page 7, please. And if we
5 could zoom in on the top of left.

6 Q And when was this photo taken?

7 A 106, 16 seconds.

8 MS. CHEN: If we could now publish, Government's
9 Exhibit 709H.

10 (Exhibit published.)

11 Q And what time was this video taken?

12 A 1:06:18 minutes -- 18 seconds.

13 MS. CHEN: Can we play this video, please.

14 (Video recording played; video recording stopped.)

15 Q What do you see depicted in this video?

16 A Zheng Congying went to the front door and tore up two
17 pieces of note.

18 MS. CHEN: Can we publish what has been admitted as
19 Government's Exhibit 710H.

20 If we can go to 10 minutes and 49 seconds in,
21 please.

22 (Exhibit published.)

23 Q First of all, Mr. Kuang, do you recognize what property
24 is depicted in this video?

25 A That is the staircase next to the home.

KUANG - DIRECT - MS. CHEN

1 MS. CHEN: Can we play the video, please, and pause
2 at 11 minutes and 17 seconds.

3 (Video recording played; video recording paused.)

4 Q Mr. Kuang, what did we just see on this video clip?

5 A Zheng Congying was walking in the front, and he threw
6 away the notes in the bushes, and I followed him.

7 MS. CHEN: And if we could zoom in to the portion of
8 the video I just wrote a line under, towards the upper right
9 middle portion. If we can keep playing, please.

10 (Video recording played.)

11 (Continued on the next page.)

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Kuang - direct - Chen

1 DIRECT EXAMINATION

2 BY MS. CHEN: (Continuing)

3 MS. CHEN: We can pause.

4 And I will note for the record we paused at 11
5 minutes, 58 seconds.6 Q Mr. Kuang, do you see where I have drawn on this exhibit
7 in the middle right-hand side?

8 A I see it.

9 Q Do you see an individual there?

10 A That's me.

11 Q What were you doing?

12 A Before I left, I made a video. I was videotaping the
13 front door and the overall environment.

14 MS. CHEN: If we could keep.

15 (Video playing.) (Video stopped.)

16 MS. CHEN: And we can pause there, please.

17 I will just note for the record I believe it is
18 12:49 is where we stopped.

19 Q Mr. Kuang, what did we just see in that video?

20 A I saw that we drove away with the car.

21 MS. CHEN: If we can skip ahead now to 14 minutes,
22 15 seconds, and if we could play from there.

23 (Video playing.) (Video stopped.)

24 MS. CHEN: Okay, if we could pause. For the record
25 we are pausing at 14 minutes, 30 seconds.

Kuang - direct - Chen

1 Q Mr. Kuang, what do we see in that clip?

2 A We drove back with the car.

3 MS. CHEN: If we can go now to 15 minutes in this
4 video and play from there. If we could zoom out, actually.

5 (Video playing.)

6 MS. CHEN: If we could pause there. For the record,
7 that's 15 minutes, 22 seconds.

8 Q Mr. Kuang, who are the two individuals we saw in that
9 video clip?

10 A The one walking in the front was Zheng Congying. The one
11 walking in the back was me.

12 Q What, if anything, did Zheng Congying have in his hand?

13 A Yes.

14 Q What, if anything -- I don't think I asked or maybe
15 something got lost in the translation. What, if anything, did
16 Zheng Congying have in his hand?

17 A He had the tape dispenser in his hand.

18 MS. CHEN: Your Honor, I have a couple more video
19 clips, but I am mindful of lunch.

20 THE COURT: Okay. Let's take our break then. It is
21 a couple minutes before 1:00. According to the computer, it's
22 1:00 p.m. We are breaking until 2:00 p.m., ladies and
23 gentlemen, for lunch. I'm hoping you don't have to go outside
24 for very long to get something.

25 Don't talk about the case. Don't do any research

Kuang - direct - Chen

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1 and keep an open mind.

2 We will see you at 2:00 p.m.

3 THE COURTROOM DEPUTY: All rise.

4 (Jury exits the courtroom.)

5 THE COURT: The witness can step down and leave the
6 courtroom.

7 (Witness steps down.)

8 THE COURT: The parties are free to go unless anyone
9 has anything to discuss before lunch? All right. We will see
10 you at 2 o'clock.

11 MR. HEEREN: Thank you, Your Honor.

12 (Lunch recess.)

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Kuang - direct - Chen

1 AFTERNOON SESSION

2 (In open court; jury not present.)

3 THE COURT: Have a seat, everyone.

4 (The jury enters the courtroom.)

5 THE COURT: Please be seated, everyone.

6 Welcome back, ladies and gentlemen of the jury. I
7 hope you had a good lunch. We are going to hear now more from
8 the witness through the examination by the Government. Thank
9 you.

10 MS. CHEN: Thank you, Your Honor.

11 May we please publish what is in evidence as
12 Government Exhibit 709A at page 8, please.

13 (Exhibit published.)

14 MS. CHEN: Can we zoom in on the top left, please.

15 DIRECT EXAMINATION

16 BY MS. CHEN:

17 Q Mr. Kuang, what is the timestamp on this photo?

18 A 1:09 and 50 seconds.

19 MS. CHEN: You can zoom out. If we could zoom to
20 the bottom left-hand corner.

21 Q Mr. Kuang, do you see a vehicle?

22 A I do.

23 Q And which way is the vehicle facing in this photo?

24 A Right-hand side.

25 Q Is that different than what the direction of the vehicle

1 was facing in in prior photos that we looked at today?

2 A Yes.

3 Q And why do you understand that is?

4 A That's when we came back for the second time.

5 MS. CHEN: Could we zoom out? Thank you.

6 Q And who is depicted in this photo in the white shirt?

7 A Zheng Congying.

8 Q And what, if anything, is in his hand?

9 A The tape dispenser.

10 MS. CHEN: If we can go to the next page.

11 Q And can you see the time this photo is taken?

12 A 1:151 and 15 seconds.

13 MS. CHEN: May we publish what is in evidence as
14 Government Exhibit 709J, please.

15 Q And can you tell me when this video was taken?

16 A 1:11 and one second. I'm sorry, 17 seconds.

17 MS. CHEN: If you could play this video.

18 (Video playing.) (Video stopped.)

19 Q What, if anything, do you hear on this video?

20 A Yeah, the tape dispenser. Hearing the sound of the tape
21 being pulled.

22 Q And can you explain how Zheng Congying's body moved on
23 this video?

24 A He bend down.

25 Q And why is he bending down?

1 A He need to put an additional tape on the third note.

2 Q And where is that third note on the door?

3 A The bottom area.

4 MS. CHEN: Can we publish what is in evidence as
5 Government Exhibit 709K, please.

6 (Exhibit published.)

7 (Video playing.)

8 Q What is happening in this video clip?

9 A While he was putting the additional tape on, I videotape
10 that action.

11 Q Okay.

12 MS. CHEN: And if we could publish what's in
13 evidence as Government Exhibit 709L, please.

14 Q And what do we see on this video, Mr. Kuang?

15 A Looking at, I was videotaping the note on the door.

16 MS. CHEN: Okay. Can we go to 709A, page 12, which
17 is in evidence.

18 Q And, again, do you recognize someone in this photo?

19 A Yes, I do. It's me.

20 Q And what's the timestamp on this video -- I'm sorry -- on
21 this photograph?

22 A 1 o'clock, 12 minutes, and 27 seconds.

23 Q And what are you doing in this photograph?

24 A I was sending the video to Chen Chaohong.

25 MS. CHEN: Can we publish what is admitted as

Kuang - direct - Chen

1 Government Exhibit 505B, please.

2 Q Mr. Kuang, can you explain to the jury what this photo
3 shows?

4 A This photograph shows -- this is one of the three notes I
5 wrote.

6 Q Was this note on the door when you left the house on
7 September 4, 2018 for the last time?

8 A Yes.

9 Q Do you see in this photo the additional piece of tape
10 that you testified Zheng Congying put on that note?

11 A Yes, I do.

12 Q Can you just mark it on the image which piece of tape
13 that was?

14 MS. CHEN: So let the record reflect that the
15 witness has noted what is the middle piece of tape stretching
16 across the image here.

17 THE WITNESS: Yes.

18 Q What does this note say?

19 A If you willing to go back to mainland to serve a 10-year
20 prison, and your wife and children will be okay, this is the
21 end of the case.

22 Q And when you say mainland, what are you refer -- what do
23 you understand that to mean?

24 A China.

25 MS. CHEN: May I publish just to the witness and

Kuang - direct - Chen

1 counsel now what has been premarked for identification as
2 Government Exhibit 505A?

3 THE COURT: All right.

4 MS. CHEN: This is a couple pages, so if you could
5 flip through.

6 Q Have you had an opportunity to review this, Mr. Kuang?

7 A Yes, I have.

8 Q What is this?

9 A It's the three notes I wrote.

10 Q Okay. Are these depictions true and accurate copies of
11 the three notes you wrote?

12 A Yes.

13 MS. CHEN: The Government moves into evidence
14 Exhibit 505A.

15 THE COURT: Any objection?

16 MR. GOLDBERGER: No objection.

17 MR. LUSTBERG: No objection.

18 MR. TUNG: No.

19 THE COURT: Admitted. You may publish.

20 (Government Exhibit 505A, was received in evidence.)

21 (Exhibit published.)

22 MS. CHEN: Can we go to the second page. Can you
23 zoom in on the top half.

24 Q Mr. Kuang, do you see any tears on this piece of paper?

25 A Yes.

Kuang - direct - Chen

1 Q And what's your understanding as to how this paper was
2 torn?

3 A It's a paper that Zheng Congying tore off and then
4 crumbled it.

5 MS. CHEN: We can take this down.

6 Your Honor, may I approach the witness?

7 THE COURT: Yes.

8 Q Mr. Kuang, I have just handed you what has been premarked
9 for identification as Government Exhibit 505 with different
10 subparts. Can you please take a look at what I just handed
11 you and please let me know when you are done reviewing.

12 A Yes, I have already seen it.

13 Q And what are these?

14 A The three notes and also the tape.

15 Q And are these exhibits the notes that you wrote and Zheng
16 posted on the door on September 4, 2018?

17 A Yes.

18 MS. CHEN: Your Honor, the Government moves to admit
19 Government Exhibit 505, which include subparts 1 through 5, I
20 believe.

21 MR. GOLDBERGER: No objection.

22 MR. TUNG: No objection.

23 MR. LUSTBERG: No objection.

24 THE COURT: Admitted.

25 (Government Exhibit 505-1 through 5, was received in

Kuang - direct - Chen

1 evidence.)

2 THE COURT: You may publish if you wish.

3 MS. CHEN: Your Honor, may I publish while I'm
4 handing it to the jury?

5 THE COURT: That's fine.

6 Q Mr. Kuang, just one last question. To your
7 understanding, who runs prisons in China?

8 A The Government.

9 MS. CHEN: Your Honor, may I have one moment?

10 THE COURT: Yes.

11 MS. CHEN: No further questions, Your Honor.

12 THE COURT: I thank you.

13 MR. GOLDBERGER: May I proceed, Your Honor?

14 THE COURT: Yes.

15 CROSS-EXAMINATION

16 BY MR. GOLDBERGER:

17 Q Mr. Kuang, my name is Paul Goldberger and I represent Mr.
18 Zheng.

19 A Okay.

20 Q If you don't understand a question that I ask, I will
21 rephrase it and repeat it until you do understand it, okay?

22 A All right.

23 Q Now, you indicated that you had pled guilty to part of
24 the indictment against you; correct?

25 A Yes.

Kuang - cross - Goldberger

1 Q Do you recall how many counts the indictment had in it?

2 A Approximately four.

3 Q And the first two counts of that indictment, if you
4 recall, dealt with whether or not that you had done something
5 on behalf of the Chinese Government; is that correct?

6 A Yes.

7 Q And you did not plead guilty to either one of those
8 counts, did you?

9 A Yes.

10 Q And the reason you didn't plead guilty to either one of
11 those counts is that you had not, in your own mind, certainly,
12 done anything on behalf of the Chinese Government in regard to
13 what you've testified to?

14 A Yes.

15 Q And the discussions that you had with Mr. Zheng, Zheng
16 Congying, were about who you were going to do this for; is
17 that correct?

18 A No.

19 Q Did Zheng indicate to you that this was being done --
20 leaving the note was being done for a Dai Lo, a gang leader
21 out of Macau?

22 A Yes.

23 Q All right. So at no time, at no time did you believe
24 that you were working for the Chinese Government; is that
25 correct?

Kuang - cross - Goldberger

1 A Yes.

2 Q You were arrested in California in 2021; is that correct?

3 A Yes.

4 Q And by the time -- within a few days of your arrest, you
5 had a meeting with -- in the United States Attorney's Office
6 with several agents of the Federal Government; is that
7 correct?

8 A Yes.

9 Q And you had a lawyer with you; is that correct?

10 A Yes, I do.

11 Q And had you paid for that lawyer or had that lawyer been
12 provided for you?

13 MS. CHEN: Objection, Your Honor.

14 THE COURT: Sustained. Perhaps we should have a
15 sidebar, Mr. Goldberger.

16 MR. GOLDBERGER: I don't need a sidebar, Your Honor.
17 I will withdraw the question.

18 THE COURT: All right.

19 Q You understood that the lawyer that was with you at the
20 first meeting you had with the Government represented you; is
21 that correct?

22 A Yes.

23 Q And you had discussions with that lawyer prior to the
24 meeting; is that correct?

25 MS. CHEN: Objection, Your Honor.

1 THE COURT: Overruled.

2 MS. CHEN: We are getting close to privilege.

3 THE COURT: Overruled just as to that question.

4 A Yes.

5 Q And did you tell that lawyer the truth about what was
6 happening?

7 MS. CHEN: Objection, Your Honor.

8 THE COURT: Sustained. Sustained.

9 MR. GOLDBERGER: It's his privilege to assert, not
10 the Government's.

11 THE COURT: Well, let's have a sidebar then.

12 (Continued on the next page.)

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1 (The following occurred at sidebar.)

2 THE COURT: It may well be his privilege, but you
3 can't ask him questions to seek to have him waive his
4 privilege. Clearly, you're trying to invade the
5 attorney-client privilege.

6 MR. GOLDBERGER: Not at all, Judge. My belief is --
7 my belief is that he started lying from the beginning. He
8 lied to his own lawyer.

9 THE COURT: He can lie to his own lawyer and that's
10 not your business. It is still a privileged communication.

11 MR. GOLDBERGER: Judge, let's assume that you are
12 right, it's 100 percent a privilege communication. It's still
13 his right to assert the privilege, not the Government's right
14 to object.

15 THE COURT: Then I'm going to do this out of the
16 presence of the jury because I don't want it to appear like he
17 is trying to hide something, or advise him about his right to
18 assert his attorney-client privilege. I don't even know why
19 you didn't front this so that we could handle it outside of
20 the presence of the jury.

21 It is never appropriate to ask a witness on the
22 stand something you know is privileged or, at least, to have
23 reason to believe it's --

24 MR. GOLDBERGER: I had this many years ago with
25 Judge Platt and he, in the end, agreed with us, that it's the

1 witness' privilege to assert.

2 THE COURT: I'm not disagreeing with that principle.

3 MR. GOLDBERGER: If you want to advise the witness
4 of that, that's fine.

5 THE COURT: I want to do this outside the presence
6 of the jury. He needs time to consider it, and I think he
7 could even consult with his lawyer if he wanted to. But the
8 fact that you are springing this on him in the middle of the
9 trial and in front of the jury is not an appropriate way to
10 proceed.

11 MR. GOLDBERGER: I will move on to something else.

12 THE COURT: All right.

13 (End of sidebar conference.)

14 (Continued on next page.)

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Kuang - direct - Chen

1 (In open court.)

2 THE COURT: The objection is sustained. Ask your
3 next question.

4 MR. GOLDBERGER: Can I just say, Judge, that the
5 question has been withdrawn.

6 THE COURT: Okay. So the question is withdrawn.
7 Ask your next question.

8 MR. GOLDBERGER: All right.

9 BY MR. GOLDBERGER:

10 Q So, in 2021, in the summer, after you had been arrested,
11 you went with the lawyer that you had and you went in the
12 United States -- either in the United States Attorney's Office
13 or some federal agency office; is that correct?

14 A Yes.

15 Q And that was in July of 2021. So we are talking about
16 two years ago almost?

17 A Yes.

18 Q And prior to the time that you started discussions with
19 the prosecutor and the agents that were there, you signed what
20 they call a proffer agreement; is that correct?

21 A Yes.

22 Q And in the proffer agreement, it spelled out, did it not,
23 that you had to tell the truth in that meeting with the
24 prosecutors and with the agents?

25 A Yes.

1 Q And you were told that it's a federal crime, just lying
2 to a federal agent or a federal prosecutor is a crime in and
3 of itself? You were told that; correct?

4 A You're referring to someone that told me? Who are you
5 referring to?

6 Q Well, I'm saying that the -- do you remember, in the
7 first meeting that you had with the -- in the U.S. Attorney's
8 Office, the people that were present?

9 A Lawyers, Government people.

10 Q Let me see if I can refresh your recollection about who
11 was there, and if you can remember, you tell me yes or tell me
12 no, you don't remember. Okay?

13 A All right.

14 Q FBI Special Agent Robert Riley? FBI Agent -- Special
15 Agent Christopher Bruno?

16 A Yes.

17 Q FBI Intelligence Analyst Mary Hamilton?

18 A Yes.

19 Q Yes?

20 THE COURT: Are you telling him or asking him?

21 MR. GOLDBERGER: I'm asking. I'm asking him the
22 question.

23 THE COURT: Hang on. Hang on. It's not clear the
24 way you phrased you're actually asking him to confirm if he
25 remembers them being there.

Kuang - direct - Chen

1 So, understand, Mr. Kuang, the question is do you
2 remember these individuals being at that meeting.

3 THE WITNESS: All right.

4 Q Do you remember the Department of Homeland Agent Mark
5 Cosentino?

6 A I don't remember.

7 Q How about Assistant United States Attorney, and he may
8 have been there by videoconference, J. Matthew Haggans?

9 A I do remember.

10 Q Okay. So, you were asked by these various agents, after
11 being told that you had to tell the truth or it was a crime,
12 you were asked by these various federal agents all kinds of
13 questions about what you had done in regard to this case; is
14 that correct?

15 A Yes.

16 Q And you lied to them; is that correct?

17 THE INTERPRETER: Say again.

18 Q You lied to them in the answers that you gave; correct?

19 A Yes.

20 Q Were you concerned, when you lied, that you might be
21 prosecuted for lying to a federal agent?

22 A Yes, I was.

23 Q And in spite of the fact that you were concerned about
24 it, you continued over whatever period of time that meeting
25 took place to continue to lie to the agents when they asked

1 you questions?

2 A Yes.

3 Q You told the agents at that meeting that Mr. Zheng had
4 called you to ask you to go to a spa in New Jersey; is that
5 correct?

6 A Yes.

7 Q That was a lie; right?

8 A Yes.

9 Q Did you tell the -- did you tell the agents that there
10 had been a piece of paper that had been in the glove
11 compartment of Mr. Zheng's car?

12 A Yes.

13 Q And you told the agents that you did not write any notes
14 at all that were put on the door of this home in New Jersey;
15 is that correct?

16 A Yes.

17 Q And you lied to them because you thought you could get
18 away with it; is that correct?

19 A Yes.

20 Q And during the course of the meeting, the first meeting,
21 this is the first proffer session that we're just talking
22 about, did any of the agents indicate to you that he thought
23 -- they thought that you might not be telling the complete
24 truth?

25 A No.

1 Q In fact, Mr. Zheng did not write those three notes that
2 are the subject of what has been put on the screen and that
3 we've discussed in the court; is that correct?

4 A Yes, he did not write it.

5 Q The handwriting on those notes that the Government put
6 into evidence is your handwriting, you wrote the notes?

7 A Yes.

8 Q And for two years, two years, at several different
9 meetings with Government agents and Government prosecutors,
10 like the ones sitting at this table, you lied to them about
11 that?

12 A No.

13 Q Well, there came a time when you finally told the truth
14 about who wrote the notes but that was within the last month
15 or two; is that correct?

16 A Yes.

17 Q Now, after the first meeting in California, which was in
18 I believe July of 2021, there were -- there was a second
19 meeting that took place also with federal agents; is that
20 correct?

21 A Yes.

22 Q And the proffer agreement was spelled out again at the
23 second meeting prior to the discussion about the fact that it
24 was a crime for you to lie to federal agents and not tell the
25 complete truth; is that correct?

1 A Yes.

2 Q Did you have the same lawyer at the second meeting or did
3 you have a different lawyer?

4 A Different lawyer.

5 Q Your lawyer that you had in this case, even at the time
6 that you pled guilty, was not paid for by you is that correct?

7 A Yes.

8 (Continued on next page.)

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1 (Continuing.)

2 BY MR. GOLDBERGER:

3 Q The person who paid for your lawyer is Mr. Chen, the guy
4 you spoke to on the phone in California; is that correct?

5 A Yes.

6 Q And he didn't even give you the money, he paid it
7 directly to the lawyer; is that correct?

8 A Yes.

9 Q And you had asked him to pay for your lawyer, or to help
10 you with paying for the lawyer; is that correct?

11 A I don't quite understand your question.

12 Q Well, who asked -- who asked Mr. Chen to pay for your
13 lawyer?

14 A He asked me to find out the amount for the attorney fee,
15 and he would give me the help.

16 Q The lawyer that you actually hired was a lawyer out of
17 Chicago; is that correct?

18 A Yes.

19 Q Mr. Chen then paid directly to the lawyer, not through
20 you, but directly to the lawyer's office; is that correct?

21 A Yes.

22 Q And Mr. Chen was the person that you had a discussion
23 with prior to the day that you went out to New Jersey, he was
24 the person you had a discussion with about who it was, okay,
25 that this was being done on behalf of; is that correct?

1 MS. CHEN: Objection, Your Honor.

2 I believe the testimony was --

3 THE COURT: No. No. I don't want anyone
4 testifying.

5 MS. CHEN: Understood.

6 THE COURT: So ask the question again.

7 Q In your discussion with --

8 MR. GOLDBERGER: Withdrawn.

9 Q Did you have a discussion with Mr. Chen on the phone from
10 New York to California, either one day or two days prior to
11 you making the trip to New Jersey?

12 A Yes.

13 Q And there came a time, then, that you learned that the
14 reason Mr. Chen was asking for this was because of some Dai
15 Lo, who is the head of a gang in Macao; is that correct?

16 A Yes.

17 Q So in your mind -- and in your mind, it was never an
18 issue about that this act that was going to go on in New
19 Jersey was being done on behalf of the Chinese Government; is
20 that correct?

21 A Yes.

22 Q Did Mr. Zheng and you have any discussion about why this
23 was being done, the act of going to New Jersey?

24 A We did discuss it, but I don't remember very clearly.

25 Q Well, why did you say to the Government, on several

Zebin Kuang - Cross - Goldberger

1 occasions over two years, that you didn't right the notes; is
2 that Mr. Zheng wrote the notes?

3 A Because I was in fear.

4 Q Well, who told you to write what was in the notes?

5 A Chen Chaohong.

6 Q As far as you know, has Chen Chaohong been arrested in
7 this case?

8 MS. CHEN: Objection, Your Honor.

9 THE COURT: Sustained.

10 And while we're stopping for a moment, Dai Lo is a
11 person or a thing, like a gang? Translator?

12 THE WITNESS: Yes.

13 THE COURT: No. Is it a person or is it an entity?

14 THE WITNESS: It's a person.

15 THE COURT: Okay, so there is a person named Dai Lo?

16 THE WITNESS: It's a way to refer to him -- refer to
17 him as.

18 THE COURT: Translator, is there a translation for
19 that?

20 THE INTERPRETER: Just Dai Lo.

21 THE COURT: So can you spell it for our court
22 reporters?

23 THE INTERPRETER: D-A-I, L-O.

24 THE COURT: Go ahead.

25 MR. GOLDBERGER: Thank you, Your Honor.

Zebin Kuang - Cross - Goldberger

1 Q You told the Government that the notes or paper in regard
2 to the notes was in Mr. Zheng's glove compartment in his car?

3 A Yes.

4 Q That was a lie, right?

5 A Yes.

6 Q Why were you -- were you trying to blame Mr. Zheng for
7 writing the notes; is that what?

8 A Yes.

9 Q So you wanted to shift the responsibility for what you
10 had done to Mr. Zheng?

11 A Yes.

12 Q You and Mr. Zheng were never really friends; is that
13 correct?

14 A What would you refer to as friend?

15 MR. GOLDBERGER: I'll withdraw the question.

16 Q If you don't understand what friends are, I'll withdraw
17 the question.

18 Would you say that you and Mr. Chen in California
19 were friends?

20 A Yeah, we're friends.

21 Q And you worked for him in his businesses in California;
22 is that correct?

23 A Yes.

24 Q And he had a business that -- he was in the marijuana
25 business in California, correct?

1 A Yes.

2 Q He also had some sort of restaurant businesses, as well?

3 A Yes.

4 Q And he was paying you as much as \$3,000 a month just to
5 watch some of the marijuana, either, grow or plants; is that
6 correct?

7 A Yes.

8 Q And it was Mr. Chen that you spoke to on the phone the
9 day before the trip to New Jersey with Mr. Zheng?

10 A Not the day before.

11 Q Two days before?

12 A The same day.

13 Q I just -- I may have asked this. I apologize if I'm
14 asking it again.

15 You wrote those three notes, the notes that have
16 been put into evidence by the Government, you wrote those
17 three notes in your home in Brooklyn; is that correct?

18 A Yes.

19 Q Mr. Zheng was not present at your home when those notes
20 were written, correct?

21 A He was not.

22 Q Do you recall how many meetings that you had with the
23 Government in regard to these proffer sessions from July of
24 2021 up until, let's say, the last month, here, in 2023, in
25 May?

1 A About 11, 12 times.

2 Q And there came a time at the end of -- well, in this
3 last -- certainly, within the last, let's say, month, that you
4 decided that you would now tell the truth to the Government
5 about some of this; is that correct?

6 A Yes.

7 Q So in the other 10 or 11 sessions, every time you were
8 asked a question about the events that took place, you lied to
9 these various federal agents, up until within the last month?

10 A Yeah. I was there to answer questions only.

11 Q Well, didn't -- didn't the Government prosecutors, for
12 instance, Mr. Heeren, who is the gentleman sitting at the end
13 of the table there -- you know who he is, correct?

14 A I do know.

15 Q You have met with him many, many times within the last,
16 let's say, six months or a year; is that correct?

17 A I have only met him for a few times recently.

18 Q So who was it that you were -- which of the prosecutors,
19 if there are any at this table, that you were lying to prior
20 to the time that you finally decided to tell the truth?

21 A Mr. Bru -- that is the first guy there.

22 THE COURT: He seems to be indicating the FBI agent
23 who is sitting at the end of the Government's table.

24 Q Just so we are clear, we are talking about this gentleman
25 that I am putting my hand on?

1 A Yes.

2 Q How many different times did you lie to him?

3 A Four or five times.

4 Q And did he ever say to you, I think you are lying to me,
5 I think you need to tell the truth?

6 A I don't quite remember.

7 Q In your own mind, did you believe that the Government was
8 convinced, in those first 10 meetings, that you were telling
9 the truth? Did you believe the Government believed you?

10 THE COURT: Sustained as to the reference to 10. I
11 think you keep invoking a number, but I don't think --

12 MR. GOLDBERGER: That was his number, Your Honor.

13 THE COURT: Did I miss that?

14 MR. GOLDBERGER: As to how many meetings there were.

15 THE COURT: Did he say there were 10 meetings?

16 THE WITNESS: Yes.

17 THE COURT: My mistake.

18 Go ahead, Mr. Goldberger.

19 A However, only recently we did more frequent meetings.

20 Q I'm sorry, I didn't quite understand the answer.

21 Could you repeat that again?

22 A I'm saying that prior to this, there only a few meetings.
23 Only recently the meetings adds up.

24 Q Well, the recent meetings you're talking about are the
25 one where you finally came in and you said a completely

Zebin Kuang - Cross - Goldberger

1 different story than you had been telling for two years; is
2 that correct?

3 A Yes.

4 Q And had this FBI agent that I am pointing to now, or
5 anybody else at this table, prior to the time you came in and
6 finally supposedly told the truth, did any of them say to you,
7 I don't believe what you're saying to us, you need to go back
8 and tell us the truth?

9 A No.

10 MS. CHEN: Mr. Goldberger, sorry, just so the
11 translator can switch.

12 Q Now, there came a time within the last, I would say,
13 what, two months or less, that you came in and you now told
14 the Government, agents and prosecutors a completely different
15 story than the one you had been telling for years, correct?

16 MS. CHEN: Objection, asked and answered.

17 THE COURT: Sustained. But I'm assuming that you
18 are going to move on to something else related to that,
19 correct?

20 MR. GOLDBERGER: Yes.

21 THE COURT: So last time, go ahead and answer that
22 question.

23 Why don't you repeat the question while the
24 interpreter is fixing the microphone?

25 We'll have the court reporter read back the

Zebin Kuang - Cross - Goldberger

1 question. Go ahead.

2 (Record read.)

3 A No, I corrected the parts that I misspoke.

4 Q When you corrected the past lies that you had told, was
5 Mr. Heeren in the room?

6 A He was there.

7 MR. GOLDBERGER: I'm sorry?

8 THE INTERPRETER: He was there.

9 Q And in your mind, did Mr. Heeren get upset with what you
10 were saying?

11 A What do you mean by not happy?

12 Q Well, did he raise his voice to you about telling the
13 truth?

14 A He did not raise his voice when he spoke to me, but he
15 did say that I was not telling the truth.

16 Q When you were telling the truth, he said to you that you
17 weren't telling the truth?

18 MS. CHEN: Objection.

19 MR. GOLDBERGER: That's what he just said. At least
20 that's what I understood, Your Honor.

21 THE COURT: Overruled.

22 You can ask the question: Did Mr. Heeren say you
23 were not telling the truth when you were telling the truth.
24 That's the question.

25 A You mean when I was telling the truth?

Zebin Kuang - Cross - Goldberger

1 Q Yes.

2 MR. GOLDBERGER: Can I have the question read back
3 to him again? The question's clear.

4 THE COURT: Why don't you ask him another question.
5 Your question's not that clear.

6 MR. GOLDBERGER: All right.

7 Q You said that you finally came in within the last month
8 or two and decided to tell the truth about what you had done
9 or what Mr. Zheng had done or Mr. Chen.

10 And that was completely different than what you had
11 said for two years, correct?

12 A Parts of it was not the same.

13 Q Oh, so half of what you said before was the truth, and
14 half of it wasn't the truth?

15 A Yes.

16 Q Well, did you explain to Mr. Heeren and the other people
17 in the room which was the truth and which wasn't the truth
18 that you had said before?

19 A I did make the corrections by telling them which parts
20 were the truth, which parts were untrue.

21 Q I'm sorry, I didn't hear the --

22 MS. CHEN: Could you move your microphone up a
23 little bit? It's hard to hear you. Try again.

24 A I did make the corrections by telling them which parts
25 were true, and which parts were untrue.

Zebin Kuang - Cross - Goldberger

1312

1 Q Had you already pled guilty by the time that you came in
2 and made this statement about what was true and what wasn't
3 true?

4 A Yes.

5 Q And doesn't your cooperation agreement, this 5K agreement
6 that you have with the Government, indicate that if you lie,
7 the Government will not file the 5K on your behalf to the
8 Court asking for leniency?

9 A Yes. That's why, after I signed this contract, I made
10 the corrections.

11 Q So it was the signing of the plea agreement with the
12 Government that made you now start to tell the truth?

13 A Yes.

14 Q Were you concerned at all that you had lied about
15 Mr. Zheng for two years to the Government?

16 A I was worried about it.

17 Q And were you worried about Mr. Chen?

18 A I just mentioned him earlier.

19 MR. GOLDBERGER: I'm sorry, I'm not hearing the
20 response to the question -- to the answer.

21 A I thought you mentioned Mr. Chen earlier.

22 Q Is it fair to say that the one person that you do care
23 about, in terms of what happens to them, in the group of
24 people that you have spoken about, is Mr. Chen, the man you
25 work for in California?

1 A No.

2 Q Well, isn't it Mr. Chen that organized this little trip
3 to New Jersey?

4 A It was him.

5 Q And do you know, as you sit there now, whether or not the
6 Government has indicted Mr. Chen?

7 THE COURT: Sustained.

8 Mr. Goldberger, that's the second time.

9 Q When is the last time you talked to Mr. Chen?

10 A Around July.

11 Q July of last year?

12 A July of two years prior.

13 Q Well, didn't you speak to him about paying for your
14 lawyer?

15 A Yes.

16 Q When was that?

17 A Before I was arrested.

18 Q I thought you indicated that when you were arrested, you
19 did not have the same lawyer as you had when you pled guilty?

20 A Yes.

21 Q Did he pay for both lawyers?

22 A I paid for the first one, and he paid for the second one.

23 Q And was there an understanding between the two of you
24 that if he paid for the second lawyer, you would not say
25 anything that was bad about him and what he had done in regard

Zebin Kuang - Cross - Goldberger

1 to this trip to New Jersey?

2 A Yes, at the time.

3 Q Now, when you told the Government in one of the proffer
4 sessions that we've discussed about Mr. Zheng and the glove
5 compartment and the paper, you made that up yourself; is that
6 correct?

7 A Yes.

8 Q And is it that you didn't like Mr. Zheng?

9 A No.

10 Q You thought it was just better to put whatever
11 responsibility there was for what happened on Mr. Zheng as
12 opposed to yourself?

13 A Yes, at the time.

14 THE COURT: Mr. Goldberger, you may want to clarify,
15 I don't know if you think he said he didn't like him or no,
16 it's not true he didn't like him. Do you know what I'm
17 saying? The way you phrased it, it could be a double
18 negative.

19 MR. GOLDBERGER: I understand, Your Honor. At this
20 point, I don't care.

21 THE COURT: All right.

22 Q You've seen and answered questions in regard to the films
23 or the tapes of the trip to New Jersey; is that correct? You
24 remember that now?

25 A Yes, I've seen those.

Zebin Kuang - Cross - Goldberger

1 Q And could you tell the jury why it is that you wrote
2 three notes, that all said the same thing?

3 A At the time Chen Chaohong asked me to do so, to write
4 three notes, so that more can be posted.

5 Q You didn't consult with Mr. Zheng before you wrote the
6 three notes, you just wrote them at home; is that correct?

7 A Yes. I wrote them as Chen Chaohong was telling me how to
8 write it.

9 Q I may have misunderstood. I want to just make sure I
10 understand.

11 Chen, Mr. Chen Chaohong, from California, he was the
12 one who told you what to put in the notes or not?

13 A Yes.

14 Q So these notes were written without you consulting with
15 Mr. Zheng about what was going to be in the notes, correct?

16 A I did not ask him.

17 Q When the -- we've seen the tapes of the -- of the time
18 that you and Mr. Zheng are in the home in New Jersey.

19 Were you aware that there were people in the house
20 or not, at the time you were there?

21 A I did not know.

22 (Continued on the following page.)

23

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25

KUANG - CROSS - MR. GOLDBERGER

1 CROSS-EXAMINATION (Continued)

2 BY MR. GOLDBERGER:

3 Q And you said that you received a, if I'm correct, if I'm
4 not correct, you correct me.5 There was a phone call received from Mr. Chen about
6 going back and taking the notes down just a couple of minutes
7 after they were put up?

8 A Yes.

9 Q And that discussion took place while you were in the car
10 with Mr. Zheng?

11 A Yes.

12 Q And when you went back to the home, were all three notes
13 pasted on the door still?

14 A No. No.

15 Q Describe for the jury where each of the three notes was
16 at the time you went back after the call from Chen?17 A Regarding these three notes, after we left for the first
18 time, Zheng Congying already torn down two of them.19 Q So are you saying that Mr. Zheng had already taken two
20 notes down himself?

21 A Yes.

22 Q That was before the phone call from Mr. Chen in
23 California?

24 A It was after the phone call.

25 Q Were you aware that Mr. Zheng went back the next morning

KUANG - CROSS - MR. GOLDBERGER

1 to take down the last note?

2 A I did not know.

3 Q Did you speak to Mr. Zheng within the next 48 hours after
4 you came back from New Jersey to Brooklyn?

5 A No.

6 Q Did you have a discussion with Mr. Chen about whether or
7 not Mr. Zheng had gone back to take the last note down?

8 A That was not discussed.

9 MR. GOLDBERGER: Your Honor, if I could just have 10
10 minutes now, I think it will save some time on the other end,
11 15 minutes.

12 THE COURT: All right, so we'll take an early
13 afternoon break.

14 We'll start again at 20 of four.

15 MR. GOLDBERGER: Thank you, Your Honor, your Honor.

16 THE COURT: All right. Don't talk about the case --
17 sorry, don't talk about the case. Don't do any research.
18 Keep an open mind.

19 THE COURTROOM DEPUTY: All rise.

20 (Jury exits courtroom.)

21 THE COURT: The witness can step down and should
22 leave the courtroom.

23 (The witness stepped down.)

24 THE COURT: Everyone else, you have 15 minutes.

25 MR. LUSTBERG: Thank you, your Honor.

KUANG - CROSS - MR. GOLDBERGER

1 MS. WONG: Thank you, your Honor.

2 MR. HEEREN: Thank you, Judge.

3 (Recess.)

4 THE COURT: Let's get the witness back in here.

5 (The witness resumed the stand.)

6 THE COURTROOM DEPUTY: All rise.

7 (Jury enters courtroom.)

8 THE COURT: Please be seated, everyone.

9 Welcome back, ladies and gentlemen of the jury, we
10 missed you. We are ready to resume with Mr. Goldberger's
11 cross-examination of the witness.

12 MR. GOLDBERGER: Thank you, your Honor.

13 CROSS-EXAMINATION (Continued)

14 BY MR. GOLDBERGER:

15 Q Just a few questions left.

16 Was there any -- was there any discussion at all
17 about you going back to New Jersey to that home again?

18 MR. HEEREN: Your Honor, I don't think the mic is
19 working, the body mic.

20 THE COURT: Hold on. I think we need to maybe
21 switch the batteries.

22 There you go. Terrific.

23 (Pause in the proceedings.)

24 (Translation by interpreter.)

25 THE COURT: It's impressive you remembered all of

KUANG - CROSS - MR. GOLDBERGER

1 that while getting the battery changed.

2 A I want to know when, which time point you're talking
3 about.

4 Q Well, you testified this morning about you and Mr. Zheng
5 having gone out to the home in New Jersey and what happened
6 there, and we've seen the tapes.

7 Was there any discussion between you and Mr. Chen,
8 for instance, about going back again to the home in New
9 Jersey?

10 THE INTERPRETER: Counsel, did you say Chen,
11 C-H-E-N?

12 MR. GOLDBERGER: C-H-E-N.

13 A No.

14 Q And you didn't get paid for whatever it is that you did
15 on that day, correct?

16 A Yes.

17 Q And you didn't speak to Mr. Zheng about going back to New
18 Jersey ever again; is that correct?

19 A No.

20 MR. GOLDBERGER: No other questions, your Honor.
21 Thank you.

22 THE COURT: Thank you, Mr. Goldberger.

23 Mr. Lustberg?

24 MR. LUSTBERG: No questions, your Honor. Thank you
25 very much.

KUANG - CROSS - MR. TUNG

1 THE COURT: Mr. Tung?

2 MR. TUNG: I just have two questions.

3 THE COURT: Go right ahead.

4 CROSS-EXAMINATION

5 BY MR. TUNG:

6 Q Mr. Kuang, have you met this gentleman?

7 I'm asking Yong Zhu to stand up.

8 Have you met this person before?

9 A I saw him when we had to appear in court for the first
10 time.

11 Q But when you refer to "first time," that was at the very
12 beginning in this court proceedings; is that correct?

13 A Yes.

14 Q And before that court proceeding, you never met this
15 person here, right?

16 A No.

17 Q And you -- do you know this person? I mean you may have
18 never met this person, but you may have some communications
19 with that person.

20 Did you ever have any communications with this
21 person here?

22 A No.

23 MR. TUNG: Thank you very much.

24 THE COURT: Thank you, Mr. Tung.

25 Redirect?

KUANG - REDIRECT - MS. CHEN

1 MS. CHEN: Just a little, your Honor.

2 THE COURT: Okay.

3 REDIRECT EXAMINATION

4 BY MS. CHEN:

5 Q Mr. Kuang, were you aware Zheng went back on
6 September 5th, 5, 2018?

7 A I did not know.

8 Q Okay. Are you aware Mr. Zheng went back to take down the
9 one note that was left on September 4th, 2018?

10 A I did not know.

11 Q Are you aware Mr. Zheng went back to see if the residents
12 had taken down the note on September 5th, 2018?

13 A I did not know.

14 Q Mr. Kuang, did you and Zheng ever communicate via text,
15 whether it be a WeChat or another phone application?

16 A What do you mean by "communication"? To communicate
17 about what?

18 Q About anything. Did you guys ever text or write, like a
19 written phone communication as opposed to a phone call?

20 A Basically none, rarely.

21 Q Rarely.

22 Do you know whether Zheng could read Chinese?

23 A Yes.

24 Q When you were with Zheng on September 4, 2018 posting the
25 notes --

KUANG - REDIRECT - MS. CHEN

1 THE COURT: Simpler thing, though. Yes, you know,
2 he knows -- whether he knows how to read Chinese or, yes, he
3 does know how to read Chinese?

4 So maybe just ask -- just clarify.

5 MS. CHEN: Sure.

6 Q Mr. Kuang, does Zheng read -- is Mr. Zheng able to read
7 Chinese?

8 THE COURT: As far as you're aware?

9 Q As far as you're aware.

10 A He can read chinese.

11 Q When you were with Zheng on September 4, 2018, posting
12 the notes, could you see the notes clearly?

13 A Yes.

14 Q About how far away were you from the notes when they
15 were -- and I'm referring to the time where all three notes
16 are on the door, about how far away were you from the notes?

17 A I think the distance was about from here, where I am, to
18 that chair.

19 MS. CHEN: And let the record reflect it's about
20 two feet.

21 Q Is that accurate?

22 A Yes. That's about right.

23 Q Okay. About how far was Zheng from the notes when he was
24 posting them on the door?

25 A He was standing in front of me, so he would have been

1 closer to that. So let's say the door was there, and he was
2 there, so about one feet.

3 MS. CHEN: Okay. No further questions, your Honor.

4 THE COURT: All right.

5 Any recross, Mr. Goldberger?

6 MR. GOLDBERGER: No, your Honor.

7 THE COURT: Anything from any of the other
8 defendants?

9 MR. LUSTBERG: No, your Honor.

10 MR. TUNG: No, your Honor.

11 THE COURT: Okay, so you may step down. Thank you
12 very much.

13 (The witness steps down.)

14 THE COURT: Government call your next witness.

15 MS. BONOMO: The United States calls Special Agent
16 Thomas Tree.

17 THE COURT: If you'll remain standing for a moment
18 so you can be sworn in.

19 THE COURTROOM DEPUTY: Please raise your right hand.

20 (Continued on next page.)

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TREE - DIRECT - MS. BONOMO

1 (Witness takes the witness stand.)

2 **THOMAS TREE**, called as a witness, having been first duly
3 sworn/affirmed, was examined and testified as follows:

4 THE WITNESS: Yes.

5 THE COURTROOM DEPUTY: Thank you. Have a seat.

6 Please state and spell your name for the record.

7 THE WITNESS: My name is Thomas Jenry Tree.

8 THE COURT: Speak into the microphone.

9 THE WITNESS: Sorry.

10 THE COURT: Yes, the chair doesn't move but the
11 microphone does.

12 THE WITNESS: My name is Thomas Jenry Tree. Thomas
13 is T-H-O-M-A-S. Jenry is J-E-N-R-Y. Last name's Tree,
14 T-R-E-E.

15 THE COURT: You may inquire.

16 DIRECT EXAMINATION

17 BY MS. BONOMO:

18 Q Good afternoon, Special Agent Tree.

19 A Good afternoon.

20 Q Good afternoon, everyone.

21 Special Agent Tree, where did you travel from to be
22 here today?

23 A I traveled from Los Angeles, California.

24 Q What do you for a living?

25 A I'm a special agent with the FBI.

TREE - DIRECT - MS. BONOMO

1 Q When did you join the FBI?

2 A I joined the FBI in September 2019.

3 Q What are your primary job responsibilities?

4 A My job responsibilities include investigating violations
5 of federal crimes, as well as threats to national security.

6 Q Have you held any other roles within the FBI?

7 A No.

8 Q Did you have to undergo any training prior to joining the
9 FBI?

10 A Yes.

11 Q Briefly, what was that training?

12 A The training consisted of five months at the FBI academy
13 in Quantico.

14 The curriculum included topics such as intelligence
15 cycle, interview, interrogation, legal, firearms and tactics.

16 Q You mentioned having -- being trained in interviewing
17 techniques; is that right? Did I hear that right?

18 A That's right.

19 Q Since joining the FBI, have you personally been involved
20 in interviewing the targets or subjects of an investigation?

21 A Yes.

22 Q How many interviews of targets or subjects would you
23 estimate that you've personally conducted?

24 A About a dozen.

25 Q I'd like to direct your attention now to October 28th,

TREE - DIRECT - MS. BONOMO

1 2020.

2 Were you working that day?

3 A I was.

4 Q What, if any, operations were you involved in that day?

5 A I was involved in the operation of the arrest of Zheng
6 Congying.

7 Q Did you conduct an interview of Zheng Congying that day?

8 A Yes.

9 Q Was that interview a voluntary one?

10 A It was.

11 Q What was your understanding of the purpose of the
12 interview?

13 A The purpose of the interview was to better understand
14 Mr. Zheng's involvement in this case, as well as to shed any
15 information or light on the case in general.

16 Q Other than you and Zheng, who was present at the
17 interview?

18 A Retired Special Agent Robert Reilly, as well as language
19 specialist, Helen Wong.

20 Q Where was the interview conducted?

21 A It was conducted at the West Covina agency of the FBI.

22 Q And what city is that in?

23 A West Covina, California.

24 MS. BONOMO: I'd like to show the witness only using
25 the ELMO what's been previously marked for identification as

TREE - DIRECT - MS. BONOMO

1 Government's Exhibit 702 and 702A.

2 Let's start with Government's Exhibit 702.

3 Q Do you recognize this?

4 A I do.

5 Q What is it?

6 A It is a flash drive containing the full audio and video
7 recording of our interview of Mr. Zheng.

8 Q And how do you know that?

9 A I know that because I reviewed it and I signed and dated
10 it.

11 Q Is it a true and accurate copy of that video recording of
12 Zheng Congying?

13 A It is.

14 Q Turning your attention next to Government's Exhibit 702A.

15 Do you recognize that?

16 A I do.

17 Q What is it?

18 A It is an excerpt of the full audio and video recording of
19 our interview of Mr. Zheng.

20 Q Have you reviewed the contents of that excerpt?

21 A I have.

22 Q And how do you know?

23 A I know because I signed and dated it.

24 Q Does the drive contain a true and accurate excerpt of the
25 video recording of Zheng Congying?

TREE - DIRECT - MS. BONOMO

1 A It does.

2 MS. BONOMO: Your Honor, the government moves to
3 admit Government's Exhibit 702A.

4 MS. WONG: No objection.

5 MR. LUSTBERG: No objection.

6 MR. TUNG: No objection.

7 THE COURT: Admitted. You may publish.

8 (Government Exhibit 702A, was received in evidence.)

9 MS. BONOMO: Your Honor, may we have permission to
10 publish Government's Exhibit 702C, which is the same excerpt
11 as in 702A, but with subtitles as a demonstrative?

12 THE COURT: All right. So, ladies and gentlemen, as
13 I advised you before, the subtitles are simply an aid to your
14 listening to the video, but it's your hearing of the
15 conversation that governs.

16 (Video recording played.)

17 (Video recording stopped.)

18 MS. BONOMO: Thank you, Ms. McMahon, you can remove
19 the video from the screen.

20 Q Special Agent Tree, after this interview, did you see
21 Zheng again?

22 A Yes.

23 Q What was -- how many times did you see him?

24 A Twice.

25 Q What were the context of those interactions?

TREE - CROSS - MS. WONG

1 A The first time was after his initial appearance. I took
2 the custody of his cell phone, and I returned it to him when I
3 saw him after his initial appearance.

4 And the second time I accepted custody of his
5 passport and shipped it to him in Brooklyn.

6 Q Other than your participation in Zheng's arrest and
7 postarrest interview, did you conduct any further
8 investigation into the crimes charged against Zheng?

9 A None of the crimes charged against Zheng.

10 MS. BONOMO: No further questions.

11 THE COURT: Thank you, Ms. Bonomo.

12 MS. WONG: Your Honor, may I inquire?

13 THE COURT: Yes.

14 CROSS-EXAMINATION

15 BY MS. WONG:

16 Q Good afternoon, Special Agent. My name is Renee Wong and
17 I'm one of the attorneys for Defendant Congying Zheng, which
18 is how I'll be referring to him.

19 A Good afternoon.

20 Q So you had testified that you had conducted a postarrest
21 interview of Mr. Zheng on October 28th, of the year 2020; is
22 that correct?

23 A That's correct.

24 Q And the events that you were interviewing Mr. Zheng about
25 had occurred in September of the year 2018; is that correct?

1 A According to the interview, that's when I believe the
2 event occurred.

3 Q Prior to the video that we saw today, did Mr. Zheng agree
4 to speak with you without the presence of an attorney?

5 A He did.

6 MS. BONOMO: Objection. Beyond the scope.

7 THE COURT: Overruled.

8 Q Was Mr. Zheng informed that he had the right to have an
9 attorney before this video?

10 MS. BONOMO: Objection.

11 THE COURT: Sustained. Let's have a sidebar.

12 (Continued on the next page.)

13 (Sidebar conference.)

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SIDEBAR CONFERENCE

1 The following occurred at sidebar.)

2 THE COURT: We went through this with another
3 witness I recall, and I understand what you're trying to get
4 at, which is that he was voluntarily providing information.

5 Maybe it was Mr. Lustberg who asked some similar
6 questions. I think maybe I'm wrong.

7 MR. LUSTBERG: It wasn't me.

8 THE COURT: I'm actually trying to be consistent
9 because I think I gave some leeway to simply establish that he
10 voluntarily provided the information.

11 MS. WONG: Right.

12 THE COURT: So I don't want there to be a suggestion
13 that somehow it was involuntary or somehow he wasn't advised
14 of his rights. I think it's fine. Be mindful that -- I
15 forget who asked the question before.

16 MS. ARFA: The interview of Mr. Zhu.

17 THE COURT: Be careful of not asking questions that
18 suggests the agents didn't observe his rights in any way.

19 MS. WONG: That's not where I was heading with this.

20 THE COURT: I understand. Go ahead.

21 (End of sidebar conference.)

22 (Continued on the next page.)

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TREE - CROSS - MS. WONG

1 (In open court.)

2 THE COURT: So the objection is overruled.

3 Do you recall the question, Agent?

4 THE WITNESS: Please repeat the question.

5 MS. WONG: I will withdraw my previous question and
6 ask.

7 CROSS-EXAMINATION (Continued)

8 Q Did Mr. Zheng agree to speak with you after being advised
9 of his rights to an attorney and he voluntarily spoke with
10 you?

11 A That's correct.

12 Q Was Mr. Zheng handcuffed while this interview was being
13 conducted?

14 MS. BONOMO: Objection.

15 THE COURT: Overruled.

16 A Mr. Zheng was handcuffed.

17 Q On the table in the interview room, were there a number
18 of pictures shown to Mr. Zheng?

19 A There were.

20 Q Were these pictures to refresh Mr. Zheng's recollection
21 about the events that transpired over two years before?

22 MS. BONOMO: Objection.

23 THE COURT: Overruled.

24 Can you answer that question?

25 THE WITNESS: Yes.

1 A The purpose of the photos were to refresh his memory, as
2 well as to provide some evidence that this is what we were
3 talking, about, that this was a topic of the interview.

4 Q During the course of the interview, did Mr. Zheng
5 identify or attempt to identify a blond man who was shown to
6 him in these photos?

7 MS. BONOMO: Objection.

8 THE COURT: Sustained.

9 Q During the interview, Mr. Zheng identified a person by
10 the name of Vincent; is that correct?

11 A He did.

12 Q Do you now understand that the person that he identified
13 to be Vincent is named Kuang Zebin?

14 A I did not know his name.

15 Q Were there other individuals, to your knowledge, that
16 were arrested on October 28th of the year 2020?

17 MS. BONOMO: Objection.

18 THE COURT: Sustained. Sustained. Beyond the
19 scope.

20 Q During the course of the interview, did Mr. Zheng
21 identify a person by the name of Chaohong Chen?

22 A He did.

23 Q To the best of your knowledge, was Chaohong Chen an
24 individual known related to this investigation?

25 MS. BONOMO: Objection.

1 THE COURT: Sustained.

2 Again, remember the limited scope of this witness'
3 testimony.

4 Q Special Agent, we watched a clip today that was about 27
5 minutes long, correct?

6 A We did.

7 Q Approximately how long was Mr. Zheng in an interview
8 room?

9 MS. BONOMO: Objection.

10 THE COURT: Sustained.

11 Q Special Agent Tree, were you present before and after the
12 clips that we were shown today?

13 MS. BONOMO: Objection.

14 THE COURT: Sustained.

15 MS. WONG: Your Honor, may we have a sidebar?

16 THE COURT: Yes, we should.

17 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 (The following occurred at sidebar.)

2 MS. WONG: Your Honor, during his custodial
3 interview after the clips we were shown today, Mr. Zheng made
4 a voluntary recorded telephone call with Chaohong Chen.

5 THE COURT: Doesn't matter.

6 MS. WONG: I don't want to get any of the statements
7 in, just that this call existed.

8 THE COURT: No. You don't get that in.

9 MS. BONOMO: It's outside the scope.

10 THE COURT: His acts to try to cooperate are clearly
11 beyond the scope, and if you want to get that in, you have to
12 find some other vehicle.

13 Remember, this agent is only coming in for the very
14 limited purpose of authenticating the statements that are
15 being offered against your client. You can't get the rest of
16 the investigation through this agent or sort of the acts
17 you're going to allege that somehow showed he wanted to
18 cooperate with the investigation.

19 That's not coming in through this agent.

20 MS. WONG: Your Honor, I'm making a record that he
21 made a voluntary statement, and during this voluntary
22 statement that he made a phone call. I think that's an
23 important part of what -- what happens at the investigative
24 stage during this interview, and it's not hearsay.

25 THE COURT: No, but it's beyond the scope of his

SIDEBAR CONFERENCE

1 testimony.

2 The government called this witness for a very
3 limited purpose to get in the postarrest statements that are
4 being offered under 801(d)(2). You can't go beyond that
5 scope. You can't get into the investigation to show that your
6 client somehow was willing to cooperate with the
7 investigation. That's not what this agent is offered for.
8 You're limited to his scope.

9 MS. WONG: All right.

10 THE COURT: All right.

11 (End of sidebar conference.)

12 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 (In open court.)

2 MS. WONG: Your Honor, I have no further questions.

3 THE COURT: Thank you. Any redirect?

4 MS. BONOMO: None, your Honor.

5 THE COURT: Thank you very much.

6 Agent, you're free to step down, and you're excused.

7 (The witness was excused.)

8 THE COURT: Government, call your next witness.

9 MS. BONOMO: Thank you, your Honor.

10 The United States calls Special Agent Mark
11 Cosentino.

12 THE COURT: Agent Cosentino, approach the witness
13 box and remain standing so you can be sworn in.

14 THE COURTROOM DEPUTY: Please raise your right hand.

15 (Continued on next page.)

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COSENTINO - DIRECT - MS. BONOMO

1 (Witness takes the witness stand.)

2 **MARK COSENTINO**, called as a witness, having been first duly
3 sworn/affirmed, was examined and testified as follows:

4 THE WITNESS: I do.

5 THE COURTROOM DEPUTY: Have a seat.

6 Please state and spell your name for the record.

7 THE WITNESS: My name is Mark Cosentino. Mark with
8 a K., C-O-S-E-N-T-I-N-O.

9 THE COURT: You may inquire.

10 MS. BONOMO: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY MS. BONOMO:

13 Q Good afternoon, Special Agent Cosentino.

14 A Good afternoon.

15 Q What do you do for a living?

16 A I'm a special agent with Homeland Security
17 Investigations, or HSI.

18 Q Is HSI a part of larger government agency?

19 A It is.

20 HSI is the criminal investigative arm of Immigration
21 and Customs Enforcement, which is under the umbrella of the
22 Department of Homeland Security, or DHS.

23 Q What does the Department of Homeland Security do, broadly
24 speak?

25 A So broadly, DHS is the catchall umbrella under which a

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1 lot of different agencies sit. And the common theme to these
2 agencies are working in support of ensuring the safety of the
3 American people.

4 So, for example, you might have heard of FEMA, who
5 responds to natural disasters. Agencies like the Coast Guard
6 or Secret Service. Or agencies like Customs and Border
7 Protection.

8 And, really, the goal of DHS, after the
9 September 11th attacks, was to get a lot of these different
10 agencies under one roof talking to each other. So CBP, for
11 example, we enjoy a close relationship and share information
12 as well.

13 Q What is your current position or title again?

14 A Special agent.

15 Q How long have you worked as a special agent for DHS?

16 A Over five years now.

17 Q What are your current job duties and responsibilities?

18 A Currently I investigate a wide variety of federal crimes
19 that HSI has oversight of.

20 A common theme to those crimes that we investigate
21 involves like elicit travel, trade and finance. What that
22 means is people, money, goods. Typically there's some border
23 or international nexus to the types of crimes we investigate,
24 which would cover anything from human or drug smuggling or
25 trafficking to child exploitation or national security cases.

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1 Q Thank you, Special Agent Cosentino.

2 And just for the benefit of the court reporter, if
3 you could speak a little bit more slowly and pull the
4 microphone closer.

5 A Of course.

6 Q Have you held any other roles as an employee of the
7 Department of Homeland Security?

8 A Prior to my tenure as a special agent, I spent two years
9 as an immigration services officer with the U.S. Citizenship
10 and Immigration Services.

11 Q As a DHS special agent, are you familiar with the term
12 "port of entry"?

13 A I am.

14 Q What is a port of entry?

15 A A port of entry is a place in which someone can make
16 lawful -- someone or something can make lawful entry into the
17 United States.

18 Q Can you give a couple of examples of ports of entry in
19 the New York area?

20 A Sure.

21 You might be familiar with JFK, LaGuardia and Newark
22 Airports. There's also the seaport where all the container
23 ships with goods come in, say in Elizabeth, New Jersey.

24 And if we're talking like a land border, if you
25 travel up to Canada and say you cross into Montreal, that

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1 place where you're making that lawful crossing is considered a
2 port of entry.

3 Q Does the Department of Homeland Security maintain records
4 of border crossings at ports of entry?

5 A They do.

6 Q Are there specific officers within DHS that create those
7 records?

8 A Yes.

9 Q Who are they?

10 A That primarily falls to Customs and Border Protection, or
11 CBP.

12 Q Does the Department of Homeland Security's border
13 crossing records include flights in to and out of the United
14 States?

15 A Yes.

16 Q Are you personally familiar with how those records are
17 maintained?

18 A I am.

19 Q Are you familiar with the database named TECS, spelled
20 T-E-C-S?

21 A Yes.

22 Q Generally speaking, is TECS the DHS database that stores
23 the border crossing records you just referenced?

24 A Yes, it is.

25 Q And does this database include records for crossings

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1 land, sea and air at ports of entry?

2 A Yes.

3 Q I'm also going to ask you about another database.

4 Are you familiar with the Advanced Passenger
5 Information System, or APIS?

6 A I am.

7 Q Does APIS -- does the APIS database include passenger and
8 flight detail records for international flights?

9 A Yes, that's correct.

10 Q Who initially provides that information?

11 A That information is initially provided by the airline and
12 transmitted to the Department of Homeland Security.

13 Q Is that information updated after the boarding of a
14 flight?

15 A Yes, it is.

16 Q Is APIS sometimes referred to just as APIS; am I getting
17 that right?

18 A That's right.

19 Q Are APIS records integrated into TECS?

20 A They are.

21 You can think of TECS as a platform, under which
22 there's a lot of different databases like APIS. So it's a
23 repository for a lot of different systems that talk to each
24 other.

25 Q For inbound flights into the United States, do CBP

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1 officers check or verify the APIS information in the TECS
2 records?

3 A Yes, of course.

4 Q Is the verification of the APIS information done at or
5 near the time a passenger enters the United States, or leaves
6 the United States?

7 A Yes, it is.

8 Q How is that verification process performed, briefly
9 speaking?

10 A So a carrier for -- which is another term for -- if we're
11 talking in the airline setting, the airline will transmit data
12 to DHS.

13 It's a way of saying, Hey, we have this scheduled
14 flight, this particular, you know, passenger or passengers are
15 on board, and they send that. Because like APIS, the name
16 tends to suggests it's an advanced passenger.

17 So in advance of the flight, that's one part -- one
18 tool in the toolbox to conduct vetting and safety checks of
19 passengers.

20 There is also a verification that takes place when
21 that passenger actually lands at the airport and is inspected
22 by a CBP officer.

23 Q And just to be clear, it's the Department of Homeland
24 Security employee who does that verification?

25 A Correct.

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1 Q Have you been trained in how to search the TECS database
2 for border crossing records?

3 A I have. Not only as a special agent, but in my last
4 assignment with U.S. Citizenship and Immigration Services.

5 Q Are you also trained in how to interpret the data
6 contained in DHS' border crossing records?

7 A Yes.

8 Q Prior to your testimony today, were you asked to review
9 border crossing records related to certain individuals?

10 A Yes, I was.

11 MS. BONOMO: I'd like to show the witness only
12 what's been previously marked as Government's Exhibit 402D.

13 (Exhibit published to the witness.)

14 Q Do you recognize this document?

15 A I do.

16 Q What is it?

17 A It is a copy of the TECS records for the travel of Hu Ji.

18 Q And Hu Ji, is that spelled H-U, space, J-I?

19 A Yes.

20 Q Is this a DHS TECS record that you reviewed in advance of
21 your testimony today?

22 A Yes.

23 Q I'm now going to ask you a series of questions about how
24 this record was generated and kept.

25 Was this TECS record created by the Department of

COSENTINO - DIRECT - MS. BONOMO

1 Homeland Security as part of its official duties and
2 activities?

3 A Yes.

4 Q Were the DHS employees who created this record under a
5 duty to do so accurately?

6 A Yes.

7 Q Were the entries in this record made at or near the time
8 of the border crossings by a DHS employee with knowledge?

9 A Yes.

10 Q Was this record kept in the course of DHS' regular
11 activities?

12 A Yes, it was.

13 Q Was it a regular practice of DHS to maintain this record?

14 A Yes.

15 Q With respect to that last series of questions --

16 THE COURTROOM DEPUTY: I'm sorry, the interpreter.

17 THE INTERPRETER: Your Honor, I ask that counsel
18 please slow down.

19 MS. BONOMO: I'm sorry. My apologies.

20 Q With respect to that last series of questions about how
21 the record was generated and kept, are the answers to those
22 same questions "yes," for all the TECS records you reviewed in
23 advance of your testimony today?

24 A That's right.

25 MS. BONOMO: Your Honor, the government moves to

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1 admit Government's Exhibit 402D.

2 THE COURT: All right.

3 MR. LUSTBERG: No objection.

4 MR. GOLDBERGER: No objection.

5 MR. TUNG: No objection.

6 THE COURT: Admitted. You may publish.

7 MS. BONOMO: Thank you.

8 (Government Exhibit 402D, was received in evidence.)

9 (Exhibit published.)

10 MS. BONOMO: For the benefit of the jury now -- and,
11 Ms. McMahon, if we can just blow up the top chart first.

12 Q For the benefit of the jury now, does this TECS record
13 show Hu Ji's entry and exit data from October 20th, 2016 to
14 December 25th, 2016?

15 A Yes, it does.

16 Q Before getting into the details, let's walk through a
17 little bit about how to read this record.

18 Directing your attention to the first three columns
19 on the left, what type of information is contained within
20 those columns?

21 A So if we look left to right in the first three, you have
22 the last name, first name, and date of birth for that
23 particular passenger.

24 Q Next, a couple of columns over, do you see the column
25 with the header "date time" at the top?

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1 A Yes.

2 Q What information does that column, the data in that
3 column contain?

4 A That date and time is the date and time of the encounter,
5 or in this case the border crossing.

6 Q In the next column, do you see "carrier code" there?

7 A Yes.

8 Q What does that refer to?

9 A That's the abbreviation for the airline.

10 For example, the first one you see is "UA," that
11 would stand for United Airlines.

12 Q Next column over "carrier NUM," does that stand for
13 carrier number?

14 A It does.

15 Q And what does the information in that column contain?

16 A You can think of that as the flight number. So if you
17 take those two together, that's United Flight 79.

18 Q How about the next column over with "I/O" at the top.

19 What does that mean?

20 A I/O is in or out, inbound or outbound. It's the
21 direction of travel of that particular flight.

22 Q So if a particular flight is coming in to the U.S.
23 through a port of entry, there would be a "I" there?

24 A That's right.

25 Q And if a particular flight is leaving the U.S., there

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1 would be an "O" there?

2 A You got it.

3 Q Let's skip over a couple of columns and look at the
4 "status" column.

5 Do you see that?

6 A I do.

7 Q What does the information in that column tell us?

8 A That's the information that's reported, whether or not
9 the passenger is on board the flight. Not on board. They are
10 not on board. They are.

11 Q And then the last two columns on the right, with ARRLOC
12 and DEPLOC, at the top -- first of all, what do those
13 abbreviations mean?

14 A Respectively, they stand for arrival location and
15 departure location.

16 Q And what does the information in the arrival location
17 tell us?

18 A Sure.

19 In the air travel context, those letters are the
20 abbreviation for the airport codes. Like EWR, Newark Airport,
21 for example.

22 MS. BONOMO: And if you can remove this call out for
23 a moment and zoom in on the legend below.

24 Q What is the information in this legend in the TECS record
25 tell us?

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1 A That's the legend for those codes I described.

2 So those three characters are the abbreviation for
3 the airport code.

4 MS. BONOMO: Returning now to the top chart with the
5 border crossing entries.

6 Q I'd like to clarify a little bit more about how to
7 interpret some of the information in this record.

8 Generally speaking, do TECS records for commercial
9 airline crossings only document the leg of the flight
10 immediately before a border crossing in the case of somebody
11 inbound, or after a border crossing in the case of somebody
12 outbound?

13 A Generally, yes.

14 The spirit of this information why federally the DHS
15 has oversight is we're concerned about where someone is
16 entering or exiting the country.

17 So there might be further travel, like another leg
18 of the trip. For example, if I went to Italy tonight and then
19 on to Dubai, the federal government may just see me as leaving
20 the country and having gone to Italy but might not see that
21 other leg of the fight.

22 And vice versa, if I return to the country and flew
23 into Newark Airport but was going to Seattle, we don't capture
24 in this system that domestic flight.

25 Q So in the case of a person leaving the country, a TECS

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1 record will generally only document the location abroad where
2 that outbound flight landed as a first stop?

3 A Correct.

4 Q And in the case of a person entering the country, the
5 TECS record would only document their first stop in the
6 country at that port of entry?

7 A Yes.

8 Q Looking at the information in this particular record, do
9 you see an entry dated October 20th, 2016?

10 A I do.

11 Q Was Hu Ji on an inbound or outbound flight?

12 A He was on an inbound flight.

13 Q Where did Hu leave from?

14 A He left from Wuhan, China.

15 Q Where did he enter the United States?

16 A San Francisco, California.

17 Q Do you see an entry then for November 5th, 2016?

18 A I do.

19 Q Was that for an outbound flight?

20 A Yes.

21 Q And where did Hu leave the U.S. from?

22 A He left from JFK Airport.

23 Q As you just testified, the TECS record wouldn't document
24 a domestic travel connection; would it?

25 A Correct, it would not.

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1 Q So fair to say that based on these two entries in the
2 TECS record, at some point between landing in San Francisco on
3 October 26th, and departing from JFK on November 5th, Hu Ji
4 made his way to the New York area?

5 A That's fair, between the 20th and the 5th, yes.

6 Q And that's based on the information contained in this
7 record?

8 A Correct.

9 MS. BONOMO: I'd like show the witness only what's
10 been previously marked as Government's Exhibit 402W.

11 (Exhibit published to the witness.)

12 Q Do you recognize this document?

13 A Yes.

14 Q What is it?

15 A These are the TECS encounter records for a passenger
16 named Zhu Feng.

17 Q Is this a DHS TECS record that you reviewed in advance of
18 your testimony today?

19 A Yes.

20 MS. BONOMO: Your Honor, the government moves to
21 admit Government's Exhibit 402W.

22 MR. LUSTBERG: No objection.

23 MR. GOLDBERGER: No objection.

24 MR. TUNG: No objection.

25 THE COURT: Admitted. You may publish.

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1 (Government Exhibit 402W, was received in evidence.)

2 (Exhibit published.)

3 MS. BONOMO: Thank you.

4 Ms. McMahon, if we can zoom in on the border entry
5 chart, or at least at the top there. Thank you.

6 Q For the benefit of the jury now, Special Agent Cosentino,
7 is this a TECS record for Zhu Feng showing border crossing
8 information for this individual?

9 A Yes, it is.

10 Q Do you see an entry dated April 3rd, 2017?

11 A Yes.

12 Q Can you please state whether Zhu Feng was on an inbound
13 or outbound flight, as well as the departure and arrival
14 locations.

15 A That was an inbound flight landing at Newark Airport from
16 Shanghai, Pudong, China.

17 (Continued on the next page.)

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1 DIRECT EXAMINATION

2 BY MS. BONOMO: (Continuing)

3 Q What carrier and flight number did Zhu Feng take?

4 A It was United Flight 87.

5 Q Can you please provide the same information for the entry
6 April 12, 2017?

7 A On April 12, 2017, Zhu Feng took an outbound United
8 flight number 86 from Newark Airport to Shanghai Pudong,
9 China.

10 MS. BONOMO: I would like to show the witness only
11 next what has been previously marked as Government Exhibit
12 402N and 44020.

13 Q Special Agent Cosentino, do you recognize these
14 documents?

15 A I don't yet see it on the screen.

16 I do.

17 Q What are they?

18 A These are the TECS encounters for passenger Tu Lan and
19 the accompanying form I94 the arrival/departure sheet.

20 Q Are these records from the TECS database that you
21 reviewed prior to your testimony today?

22 A Yes, they are.

23 MS. BONOMO: Your Honor, the Government moves to
24 admit Government Exhibits 402N and 4020.

25 MR. LUSTBERG: No objection.

1 MR. GOLDBERGER: No objection. I'm sorry.

2 MR. TUNG: No objection.

3 THE COURT: Admitted.

4 (Government Exhibits 402N and 402O, were received in
5 evidence.)

6 THE COURT: Let me ask you a question. I assume
7 there are a lot of these documents and you did a batch
8 business record colloquy on that. Is there going to be any
9 objection from the defense?

10 MR. LUSTBERG: No.

11 MR. GOLDBERGER: No.

12 THE COURT: Okay. So we can dispense with you
13 asking him about them. Just go ahead and post all of your 402
14 exhibits.

15 MS. BONOMO: Would Your Honor still like me to move
16 them into evidence?

17 THE COURT: Yes. You should move them in one by
18 one.

19 MS. BONOMO: Thank you, Your Honor.

20 If we can focus on Government Exhibit 402N first,
21 please. If we can zoom in on the top, thank you, Ms. McMahon.

22 Q Do you see an entry for April 3, 2017?

23 A Yes, I do.

24 Q My apologies. For the benefit of the jury now, is this a
25 TECS record pertaining to Tu Lan?

1 A Yes.

2 Q Do you see an entry dated April 3, 2017?

3 A Yes.

4 Q Can you please provide whether Tu Lan was on an inbound
5 or outbound flight and the arrival and departure locations?

6 A Tu Lan was on inbound United Flight 87 from Shanghai
7 Pudong Airport to New York airport.

8 Q What flight was Tu Lan on?

9 A United 87.

10 Q Do you see an entry then for April 7, 2017?

11 A Yes.

12 Q Can you please provide the same information with respect
13 to that entry?

14 A Tu Lan was on board an outbound flight from JFK Airport
15 to Beijing, China, and that flight was Air China 990.

16 Q There is also an entry in this record dated April 12,
17 2017. Do you see that?

18 A Yes.

19 Q What was Tu Lan's status for that entry?

20 A Tu Lan was not on board that scheduled flight.

21 Q Comparing the April 12th entry with the April 7th entry,
22 what does Tu's non-onboard status for that later flight
23 indicate to you given your experience reviewing these types of
24 records?

25 A In my experience, what that means to me there was a

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1 flight reservation that existed at one time on the 12th, but
2 it was not taken. It was not taken, of course, because five
3 days earlier that passenger Tu Lan was confirmed on board out
4 of the country.

5 MS. BONOMO: Please put up Government Exhibit 4020
6 next please, which has been already admitted.

7 Q Special Agent Cosentino, this TECS record looks a little
8 bit different than the last few that we've been looking at.
9 What type of TECS record is this?

10 A This is the digital copy of the form I-94. There's a lot
11 of letters and numbers when you talk about things with the
12 Government. What that form is, it's a record of the arrival
13 or departure of a passenger.

14 Q And is this the I-94 correlated to Tu Lan's April 3rd
15 entry into the country?

16 A Yes, it is.

17 Q Do you see where it says U.S. street address or U.S.
18 address-street?

19 A Yes.

20 Q What is the information in this portion of the record
21 mean?

22 A That's usually traveler-supplied information and that
23 indicates where the passenger will first be staying or the
24 visitor will first be staying in the United States.

25 Q What is the listed address in this I-94 record?

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1 A The record lists 95 Glimcher Realty Way in Elizabeth, New
2 Jersey.

3 Q Special Agent Cosentino, have you personally visited this
4 location before?

5 A Yes.

6 Q Do you recall from your prior visits what business is
7 located there?

8 A Outside the context of this investigation, I know that to
9 be an Embassy Suites.

10 Q Thank you.

11 MS. BONOMO: You can remove this exhibit.

12 Your Honor, the Government would like to move into
13 evidence Government Exhibits 402G and 402H next.

14 MR. LUSTBERG: No objection.

15 THE COURT: At this point, go ahead and publish
16 those.

17 So those are admitted and you can publish 402G and
18 402H?

19 MS. BONOMO: 402H. Thank you, Your Honor.

20 (Government Exhibits 402G and 402H, were received in
21 evidence.)

22 (Exhibit published.)

23 Q For the benefit of the jury, what is Government Exhibit
24 402G?

25 A These are the TECS records for passenger Li Minjun.

1 Q Does this particular TECS record contain exit and entry
2 data for April 2017?

3 A Yes.

4 Q Do you see the entry for April 5, 2017?

5 A Yes.

6 Q Can you please provide the inbound or outbound
7 departure/arrival flight information for that entry?

8 A April 5, 2017, Li Minjun was on board an inbound flight
9 from Shanghai Pudong, China to Newark Airport. That was
10 United Flight 87.

11 Q Can you please provide the same information for the April
12 8, 2017 entry?

13 A On April 8, 2017, she departed the country on board
14 United flight 89 from Newark Airport to Beijing, China.

15 MS. BONOMO: We can turn now to Government Exhibit
16 402H, which has been already admitted.

17 Q Is this another I-94 TECS record like the one we were
18 discussing with Tu Lan?

19 A Yes, that's right.

20 Q What is the U.S. address and street listed for this
21 record?

22 A It's similar, 95 Glimcher Realty Way, but the city is
23 listed as New York; State, New Jersey, with a New Jersey zip
24 code.

25 MS. BONOMO: Thank you. You can remove the exhibit

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1 from the screen.

2 Your Honor, next, the Government would move to admit
3 Government Exhibits 402R and 402T.

4 THE COURT: Go right ahead. They are admitted and
5 you may publish. My apologies.

6 (Government Exhibits 402R and 402T, were received in
7 evidence.)

8 (Exhibit published.)

9 Q Looking at 402T, first. Special Agent Cosentino, what is
10 this document?

11 A These are the TECS records for the travel of passenger Xu
12 Cewei.

13 Q Do you see an entry for April 5, 2017?

14 A Yes.

15 Q What was the inbound or outbound status departure or
16 arrival and airline information for that entry?

17 A On April 5, 2017, he was on board an inbound flight from
18 Shanghai Pudong, China to Newark Airport.

19 Q Can you please relay the same information for the April
20 12, 2017 entry?

21 A On April 12, 2017, he was outbound on board United Flight
22 86 from Newark to Shanghai Pudong, China.

23 MS. BONOMO: If we can please look at Government
24 Exhibit 402R next, which has just been admitted.

25 Q Special Agent Cosentino, is this another I-94 record?

1 A Yes, like the others we've seen.

2 Q If you could just please read what the U.S. address and
3 street listed for this record is?

4 A The record lists 95 Glimcher Realty Way. The city is New
5 York, but the state is New Jersey with a New Jersey zip code.

6 Q Thank you.

7 MS. BONOMO: Your Honor, I'd next like to show the
8 witness what has been previously marked as Government Exhibit
9 444, which is a slightly different type of record.

10 THE COURT: Okay.

11 Just for the witness.

12 Q Special Agent Cosentino, do you recognize this document?

13 A I do.

14 Q What is it?

15 A This is a blank copy of a customs declaration form.

16 Q Was this customs declaration form created by the
17 Department of Homeland Security as part of its official duties
18 and activities?

19 A Yes.

20 Q Based on your familiarity with DHS records and forms,
21 does it appear to be altered or modified in any way?

22 A No.

23 MS. BONOMO: Your Honor, the Government moves to
24 admit Government Exhibit 444.

25 MR. LUSTBERG: No objection.

1 MR. GOLDBERGER: No objection.

2 MR. TUNG: No objection.

3 THE COURT: Admitted, you may publish.

4 (Government Exhibit 444, was received in evidence.)

5 (Exhibit published.)

6 Q For the benefit of the jury now, Special Agent Cosentino,
7 can you please briefly describe what this document is?

8 A Sure. This might be recognizable. If, historically,
9 anyone has taken a flight and before you land the flight
10 attendants pass out this information. It's the card that you
11 present to the customs officer when you have your bag and
12 you're about to leave the airport where you declare any
13 merchandise or money that you are bringing into the country.

14 MS. BONOMO: I'd next like to re-publish what has
15 been previously admitted as Government Exhibit 437 side by
16 side with Government Exhibit 444.

17 And, Ms. McMahon, if you could zoom in on the
18 question prompts on Government Exhibit 444, as well as, if
19 it's possible, to zoom in any more on Government Exhibit 437.

20 Q Special Agent Cosentino, looking at these two exhibits
21 side by side, do the English portions of Exhibit 437, the note
22 on the side, appear to contain the same questions or prompts
23 as in the customs declaration form?

24 A Yes, they do.

25 Q And does Exhibit 437 also appear to contain answers to

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1 those questions or prompts?

2 A Yes.

3 MS. BONOMO: Thank you.

4 You can remove both exhibits from the screen. I'd
5 now like to show the witness only what has been previously
6 marked for identification as Government Exhibits Y and Z. I
7 guess we can start with Government Y first or you can do both
8 at the same time.

9 THE COURT: There is a number before the Y.

10 THE COURTROOM DEPUTY: 402.

11 MS. BONOMO: I'm sorry, 402Y and 402Z.

12 THE COURT: You really through us for a loop there.

13 MS. BONOMO: My apologies.

14 BY MS. BONOMO:

15 Q Special Agent Cosentino, do you recognize these
16 documents?

17 A I do.

18 Q What are they?

19 A It's the data that we just saw but in a more
20 user-friendly format. On the left, 402Y, it's selected U.S.
21 border cross data by date, and 402Z is that same information
22 organized by name.

23 Q To be clear, do both exhibits summarize certain data from
24 the TECS records for Hu Ji, Zhu Feng, Tu Lan, Li Minjun, Xiao
25 Jun, Sun Hui, and Xu Cewei?

1 A Yes, that's right.

2 Q Did you personally prepare both exhibits?

3 A Yes, I did.

4 Q And did you examine the TECS records carefully to make
5 both exhibits?

6 A Yes.

7 MS. BONOMO: Your Honor, the Government moves to
8 admit Government Exhibits Y and Z.

9 MR. LUSTBERG: No objection.

10 MR. GOLDBERGER: No objection.

11 MR. TUNG: No objection.

12 THE COURT: Admitted. You may publish.

13 Q Let's start with Government Exhibits 402Y and Z.

14 MS. BONOMO: Actually, I think I misspoke again.

15 Your Honor, the Government moves to admit Government Exhibits
16 402Y and then 402Z.

17 MR. LUSTBERG: And still no objection.

18 THE COURT: No matter how you number it, they are
19 still aren't objecting.

20 Admitted.

21 MS. BONOMO: Thank you. Thank you, Your Honor.

22 (Government Exhibits 402Y and 402Z, were received in
23 evidence.)

24 MS. BONOMO: Let's start with Government Exhibit
25 402Y. If we could try to zoom in just a little bit on the

1 contents of this first page. Thank you.

2 Q For the benefit of the jury now, Special Agent Cosentino,
3 what is the information contained in this chart?

4 A So, generally, you'll recognize a lot of the information,
5 although the columns may be in different spots. This tells
6 the same story that we saw individually, but it's a
7 representation of the various passengers we've discussed. So
8 it includes the name, date of birth, direction of the flight,
9 the type of flight and departure, arrival and status, for
10 example, as well as the time.

11 Q How is the information in this particular summary chart
12 organized?

13 A This one is chronologically by date.

14 Q If two individuals were either on board or not on board a
15 particular inbound or outbound flight, would that information
16 be listed in sequential rows?

17 A Yes.

18 MS. BONOMO: If we can zoom in on the entries dated
19 December 13, 2016 through December 25, 2016 as an example.

20 Q So, for example, Special Agent Cosentino, were Hu Ji, Sun
21 Hui, and Xiao Jun on the same inbound flight on December 13,
22 2016?

23 A Yes, they were.

24 Q Were Hu Ji, Sun Hui, and Xiao Jun not on board the same
25 flight on December 15, 2016?

1 A That's correct. They were not.

2 Q Were Hu Ji, Sun Hui, and Xiao Jun on board the same
3 outbound flight on December 25th out of JFK?

4 A Yes.

5 Q And then were the same three individuals listed as not on
6 board the same flight, United Airlines Flight 79 on December
7 25, 2016?

8 A That's correct.

9 Q Thank you.

10 MS. BONOMO: If we can briefly look at Government
11 Exhibit 402Z next.

12 Q For the benefit of the jury now, Special Agent Cosentino,
13 how is the information -- or what is this exhibit?

14 A This is similar to the last exhibit we saw, but it's
15 organized by name, so it's a different way of getting to the
16 same information depending on what you're looking for.

17 Q Thank you.

18 MS. BONOMO: Ms. McMahon, you can remove this from
19 the display.

20 Your Honor, the Government would next move to admit
21 Government Exhibit 402U, which is the Zhu Yong TECS record.

22 THE COURT: Okay. Okay.

23 (Government Exhibit 402U, was received in evidence.)

24 MS. BONOMO: Ms. McMahon, if you can zoom in on the
25 first few entries for the benefit of the jury.

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1 Q For the benefit of the jury, Special Agent Cosentino, is
2 this a TECS record for Zhu Yong?

3 A Yes.

4 MS. BONOMO: If you can remove that call out.

5 Q On the first page, do you see an entry for September 7,
6 2016?

7 MS. BONOMO: I don't know if we can blow that up a
8 bit.

9 A I do.

10 Q Thank you.

11 Can you please provide whether Zhu Yong was on an
12 inbound or outbound flight, as well as the departure and
13 arrival locations?

14 A He was on an outbound flight from JFK Airport to
15 Guangzhou Baiyun in China.

16 Q How about the entry for October 26, 2016, which I believe
17 is just the next one down?

18 Thank you. Can you please provide the same
19 information for that entry?

20 A October 26, 2016, Zhu Yong was on board an inbound flight
21 from Baiyun Airport in China to JFK Airport.

22 Q Thank you.

23 THE COURT: I should note that Exhibit 402U was
24 admitted and was published or is being published.

25 Go ahead.

1 MS. BONOMO: Thank you, Your Honor.

2 Q If we can jump forward a little bit in time to the entry
3 for May 13, 2018, which I believe is on the second page of
4 this exhibit toward the top.

5 Can you please provide the inbound or outbound
6 status, as well as the departure and arrival location for this
7 particular entry?

8 A Sure. On May 13, 2018, Zhu Yong was on board outbound
9 Cathay Pacific Flight 889 from JFK to Vancouver, Canada.

10 Q And are you at all familiar with Cathay Pacific?

11 A Yes. They're based out of Hong Kong.

12 Q If I could next direct your attention to the entry for
13 June 2, 2018. Can you please provide the inbound or outbound
14 status, as well as the departure and arrival location for this
15 entry?

16 A Zhu Yong was on board inbound Cathay Flight 840 from Hong
17 Kong to JFK.

18 Q Special Agent Cosentino, with respect to the May 13, 2016
19 entry, the TECS records document that the first stop for that
20 outbound travel was made in Vancouver?

21 A Yes.

22 Q Then on June 2, 2018, Zhu Yong was on a flight back into
23 the United States departing from Hong Kong, China?

24 A That's right.

25 Q Based on your understanding of how to interpret these

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1 records, is it fair to deduce that between May 13, 2018 and
2 June 2, 2018 Zhu Yong made his way over to China?

3 A That's fair.

4 MS. BONOMO: If you could remove this exhibit,
5 please, for a moment.

6 I'd now like to re-publish Exhibits 902D and 902H
7 side by side, which have been previously admitted.

8 Okay. I'd also like to reread a stipulation into
9 the record. No need to bring it up, Ms. McMahon.

10 From Government Exhibit 201, paragraph 20:

11 Government Exhibit 902, including any subparts, is a
12 true and accurate copy of a Cellebrite extraction report
13 containing data associated with the Apple iCloud account with
14 the username zyzy996@sina.com and DS ID 8216796549.

15 Government Exhibits 902A to 902B, 902D to 902J, and
16 902L to 902M are true and accurate copies of excerpted data
17 from Government Exhibit 902.

18 Looking now at Government Exhibit 902D and 902H, if
19 you could please, Ms. McMahon, blow up the row 9. Yes, thank
20 you.

21 Q Special Agent Cosentino, does the first page of 902H
22 appear to be the same image as the thumbnail in row 9 of 902D?

23 A Yes.

24 MS. BONOMO: Ms. McMahon, if you can go to the next
25 page of 902H, and then the row 10 of 902D. Thank you.

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1 Q Does the second page of 902H appear to contain the same
2 image as the thumbnail in row 10 of 902D?

3 A Yes.

4 MS. BONOMO: Ms. McMahon, if you can zoom in on, it
5 appears to be an address post there.

6 Q Special Agent Cosentino, what is the number listed in
7 that address post?

8 A 335.

9 Q Okay.

10 MS. BONOMO: Thank you, you can remove that call
11 out. And if we could look at the third page of 902H. Thank
12 you. And then row 11 of 902D. Thank you.

13 Q Same question: Is the thumbnail in row 902H the same
14 image as the image in 902 -- sorry -- the thumbnail in 902D
15 the same as the image in 902H?

16 A Yes.

17 Q The third page?

18 A Yes.

19 Q Thank you.

20 MS. BONOMO: You could remove the 902H from the
21 screen and just keep 902D for a moment.

22 Can we also republish Government Exhibit 402U side
23 by side with this one. And for Special Agent Cosentino, if we
24 can zoom in on the metadata for rows 9, 10, and 11 so that he
25 could review that first. Thank you.

1 If you could pull up the same for rows 10 and 11, if
2 possible. Thank you.

3 Q Special Agent Cosentino, can you read the capture time
4 for rows 9 and 10 of Government Exhibit 402D?

5 A The dates are both May 9, 2018.

6 Q Thank you.

7 MS. BONOMO: And then, Ms. McMahon, if you could
8 blow up row 11, Government Exhibit 902D.

9 Q What was the capture time for this particular photo?

10 A That was also captured on May 9, 2018.

11 Q Okay. Thank you.

12 MS. BONOMO: Ms. McMahon, if you could next blow up
13 the same two entries that we were just looking at in
14 Government Exhibit 402, the travel on May 13, 2018, as well as
15 the travel on June 2, 2018.

16 Q Special Agent Cosentino, how many days after the capture
17 time for these photos did Zhu Yong leave the country?

18 A Four days.

19 MS. BONOMO: Thank you. No further questions.

20 THE COURT: Thank you.

21 Cross-examination?

22 MR. LUSTBERG: No questions for this witness, Your
23 Honor.

24 MR. GOLDBERGER: No questions.

25 THE COURT: Mr. Tung?

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1 MR. TUNG: No questions.

2 THE COURT: All right. Thank you very much. You
3 may step down.

4 (Witness excused.)

5 THE COURT: Let me pose this question to the
6 Government because it is almost 5:25. It seems to me we
7 shouldn't call another witness and give the jury a reprieve,
8 eight whole minutes from the trial day.

9 Thank you, ladies and gentlemen, for your patience
10 and for coming in today under the circumstances. We want
11 everyone to get home safely. Remember to wear your masks
12 outside.

13 Have a great night. Don't talk about the case.
14 Don't do any research and keep an open mind. We will see you
15 tomorrow morning at 9:30 ready to go.

16 THE COURTROOM DEPUTY: All rise.

17 (Jury exits the courtroom.)

18 THE COURT: Please be seated, everyone.

19 So, let's just take a couple minutes to figure out
20 where we are. I have been -- like a scorecard -- keeping
21 track of the witnesses who have been called and how many more
22 we have to go.

23 Who does the Government anticipate testifying
24 tomorrow?

25 MR. HEEREN: One moment, Your Honor.

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1 THE COURT: Okay.

2 MR. HEEREN: Your Honor, the Government anticipates
3 calling retired Investigator John Ross, Special Agent Naviene
4 Habeeb. That is spelled N-A-V-I-E-N-E, H-A-B-E-E-B, and Xu
5 Jin, X-U, J-I-N.

6 THE COURT: All right. And you think that will fill
7 tomorrow, I gather?

8 MR. HEEREN: I think so, Your Honor. We will go
9 back and look at our calendar and make sure we have somebody
10 on standby or do our best to do so.

11 THE COURT: Okay. That will leave us for next week
12 about, by my count, eight or nine witnesses.

13 MR. HEEREN: I think that's right, Your Honor. I
14 think it's possible that some of those witnesses, we want to
15 obviously evaluate, and I think there are a number of those we
16 may not call. We haven't made a final determination yet, but
17 I think we can look into that and get back to the Court.

18 THE COURT: Good. So I'm hopeful that by the close
19 of tomorrow we will be able to give you a draft of the jury
20 instruction so that you will have the weekend to review them
21 and then anticipate a charge conference sometime next week.
22 Obviously it will depend on when the Government finishes their
23 case and then how much of a case each of the defendants wants
24 to put forth. Okay.

25 Anything else?

1 MR. HEEREN: Yes, Your Honor, on the point of the
2 defense case, I wanted to raise two concerns: The first is
3 with regard to any exhibits that the defendants may intend to
4 introduce on the defense case, and I want to put to the side
5 counsel for Mr. McMahon, who has already represented we have
6 everything that would be used as an exhibit, essentially. I
7 don't believe we have received any exhibits from counsel for
8 Mr. Zheng or Mr. Zhu, and in particular, Mr. Zhu's counsel
9 specifically said that he -- I believe on May 24th, that he
10 was still getting his exhibits together and determining who
11 his witnesses are. I think given that we are looking at
12 potentially resting at the early part of next week, I think it
13 is time for us to receive those materials.

14 Relatedly, I would ask that if there is any 26.2
15 material for any witnesses that any of the defense intends to
16 call -- we have not received any 26.2 material at all -- that
17 we receive it.

18 I understand there's not necessarily an obligation
19 to do so, but I would note that the Government did endeavor to
20 get the vast bulk of our corresponding 3500 material out
21 fairly early to defense counsel and, so, I would just
22 respectfully request that soon.

23 THE COURT: Okay. Well, I think -- I mean,
24 obviously, Mr. McMahon's counsel is ahead of the game and has
25 already.

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1 MR. LUSTBERG: Except for one thing, Judge.

2 THE COURT: Yes.

3 MR. LUSTBERG: Just to be clear, so as the
4 Government has done, as we have all done throughout, we have
5 reserved our right to supplement, and we actually raised an
6 issue with regard to a couple of the exhibits earlier today.
7 We will continue to discuss that with the Government and work
8 that out. So far we have no for-sure additional exhibits. It
9 is possible that there may be others. We've provided
10 substantial exhibits to the Government previously.

11 THE COURT: Right. That I understand.

12 And obviously the defense occupies a slightly
13 different position than the Government because obviously
14 they're reactive. They are, I presume, deciding what their
15 defense case, if any, is going to look like based on the
16 Government's case and how things are going.

17 Certainly, I'm not going to hold any defendant to
18 any production that they have made so far or any disclosures.
19 On the other hand, I do want the defense to be mindful that
20 you should promptly, as soon as you know you're going to use
21 an exhibit or if you have any 26.2 material now to try to
22 produce it to the Government as soon as possible because
23 otherwise we may end up with a delay if the Government needs
24 more time to prepare for any defense witnesses. So it is in
25 everyone's interest not to incur any delay.

1 Before the weekend, whatever you can provide to the
2 Government would be helpful, because obviously that's the gap
3 that everyone has to prepare.

4 But Mr. Heeren, the defense can only be held
5 responsible for whatever they know at this point that they are
6 going to use.

7 But be mindful everyone that if you want to be sure
8 to use something, try to get it to the Government as soon as
9 possible so that we can deal with any objections or issues.

10 And also, I thought where you were going,
11 Mr. Heeren, was a caution about using exhibits that contain
12 PII or disclose sensitive information since there has been a
13 consistent effort by the Government to redact addresses and
14 names and other information relating at least to the alleged
15 victims in the case. So, be mindful of that, and that's why
16 the Government should get these exhibits as soon as possible
17 so that we can address those concerns.

18 MR. LUSTBERG: I should say, see all these boxes
19 against the wall, those are because we have already done
20 redactions with regard to our exhibits. So we are prepared.

21 I just want to -- and there's full disclosure to be
22 clear, so we've gone back and forth and are still going back
23 and forth with respect to our particular witnesses, who
24 they're going to be, in part that depends on who the
25 Government is going to call, even right to this moment. But I

1 will communicate with the Government, as they have to us, who
2 our witnesses will be if and as of when we know them. I
3 suspect there will be a few.

4 THE COURT: At the risk of stating the obvious, the
5 defense has had for sometime the Government's witness list and
6 their exhibits and the 3500 material for all of those
7 witnesses, so it shouldn't be too much of a guessing game in
8 terms of what the Government anticipates, or the universe of
9 what they anticipate putting in.

10 We're more in the realm right now of the Government
11 reducing some of its case. With that in mind, just try to be
12 prompt.

13 MR. LUSTBERG: No question.

14 The reductions in the Government's case may be
15 people that we then want to call. I mean, just to be clear.
16 And that happened last week. We told the Government about
17 some witnesses we might want to call if they didn't call them.
18 They promptly disclosed to us what their intentions were with
19 regard to a few witnesses. Those are witnesses that we may
20 want to call. I haven't decided, but as soon as I have
21 decided what will happen on that, which will depend on the
22 course of the next few days, I will advise counsel.

23 THE COURT: Let me ask you one question for my
24 scheduling purposes. I haven't gotten to the point that I
25 have shortened the jurors' lunch period, and they seem to

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1 value their time outside the courtroom and don't seem
2 concerned about finishing the trial as opposed to having some
3 breaks during the trial. On the defense side -- and I don't
4 know if you have spoken about your collective presentations --
5 but does anyone anticipate that with the defense case or cases
6 the trial will run longer than the end of next week?

7 I'm seeing some negative head shaking going on.

8 MR. GOLDBERGER: Hopefully not on our side.

9 MR. LUSTBERG: I can say this, if Mr. Heeren's
10 estimate of resting earlier next week turns out to be true, no
11 problem. We are thinking about -- I think our presentation
12 will be less than a day.

13 THE COURT: Okay. And early next week I think is no
14 later than Tuesday. That's what I would say.

15 MR. HEEREN: I think Tuesday, Wednesday is what I am
16 looking at. We are aiming for Tuesday.

17 THE COURT: All right. We are getting into somewhat
18 dangerous territory, is all I can say, in terms of finishing
19 by Friday, because the jury obviously needs time to
20 deliberate. Obviously that shouldn't affect anyone's decision
21 about what to do or how to proceed. I just want to get an
22 estimate of if I should I think about maybe shortening the
23 jurors' lunches to get us done by next week. It is food for
24 thought.

25 MR. LUSTBERG: So to speak.

1 THE COURT: Yes. Exactly. I wish I was that
2 clever, but no.

3 So we will see you tomorrow morning, folks, ready to
4 go at 9 o'clock.

5 MR. LUSTBERG: Thank you.

6 MR. HEEREN: Thank you, Your Honor.

7 (Whereupon, the trial adjourned at 5:35 p.m.)

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